

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

ALEXANDER AKRIDGE JACOBS,
dob 09/10/90;

JESSE MEREL CANNON,
dob 06/08/90;

JOSEPH AUSTIN GASKINS,
dob 09/26/00;

BRIAN CORTEZ LIGHFOOT JR.,
dob 09/30/96;

CHRISTIAN MARTINEZ,
dob 10/17/98;

LUIS FRANCISCO MORA,
dob 08/03/91;

SAMUEL HOWARD OGDEN,
dob 12/05/97;

BRYAN RIVERA,
dob 07/18/01;

FARAZ MARTIN TALAB,
dob 08/12/94;

JEREMY JONATHAN WHITE,
dob 10/07/82;

ERICH LOUIS YACH,
dob 01/07/84;

Defendants

CT No. SCD274477
DA No. AEX741

INDICTMENT

FILED
Clerk of the Superior Court

MAY 23 2022

By: A. Cabrales



PC296 DNA TEST STATUS SUMMARY

<u>Defendant</u>	<u>DNA Testing Requirements</u>
AKRIDGEJACOBS, ALEXANDER	DNA sample has been previously provided
CANNON, JESSE MEREL	DNA sample has been previously provided
GASKINS, JOSEPH AUSTIN	DNA sample has been previously provided
LIGHFOOT, JR., BRIAN CORTEZ	DNA sample has been previously provided
MARTINEZ, CHRISTIAN	DNA sample has been previously provided
MORA, LUIS FRANCISCO	DNA sample has been previously provided
OGDEN, SAMUEL HOWARD	DNA sample has been previously provided
RIVERA, BRYAN	DNA sample has been previously provided
TALAB, FARAZ MARTIN	DNA sample has been previously provided
WHITE, JEREMY JONATHAN	DNA sample has been previously provided
YACH, ERICH LOUIS	DNA sample has been previously provided

The Grand Jury of the County of San Diego, State of California, accuses the Defendant(s) of committing, in the County of San Diego, State of California, before the finding of this Indictment, the following crime(s):

CHARGES

COUNT 1 - CONSPIRACY TO COMMIT A CRIME

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, and ERICH LOUIS YACH did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Penal Code Section 404 Riot, in violation of PENAL CODE SECTION 182(a)(1).

Thereafter, in the County of San Diego, State of California, pursuant to the above conspiracy and in furtherance of the objects thereof:

Defendants are affiliated with Antifa. A group of the Defendants originated from the Los Angeles area and the remaining Defendants are from San Diego County. Antifa uses force, fear, and violence to further their interests and suppress the interests of others. The alleged objective of this conspiracy was to incite and participate in a riot as defined in Penal Code section 404 Riot.

On or about January 2, 2021, Antifa supporters posted on social media calling for "counterprotesting" and direct action in response to a scheduled political demonstration in Pacific Beach on January 9, 2021. Defendants and other uncharged coconspirators confirmed their support and participation by showing up in Pacific Beach on January 9, 2021, dressed in black clothing, and armed with weapons and protective gear, before participating in the violence described below.

INITIAL OVERT ACTS

CHARGES (cont'd)

OVERT ACT NO. (01): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. gathered black clothing, a tactical vest, goggles, a black mask, gloves, and armed himself with a tear gas weapon.

OVERT ACT NO. (02): On or about January 9, 2021, CHRISTIAN MARTINEZ gathered black clothing, a black helmet, and armed himself with a tear gas weapon.

OVERT ACT NO. (03): On or about January 9, 2021, FARAZ MARTIN TALAB gathered black clothing, and a face mask.

OVERT ACT NO. (04): On or about January 9, 2021, BRYAN RIVERA gathered black clothing, a black helmet, goggles, and wrapped his wrist with pink boxing tape.

OVERT ACT NO. (05): On or about January 9, 2021, LUIS FRANCISCO MORA gathered black clothing, a black mask, and armed himself with a tear gas weapon.

OVERT ACT NO. (06): On or about January 9, 2021, prior to arriving in Pacific Beach, LUIS FRANCISCO MORA stopped at Big 5 Sporting Goods in Long Beach, California, and purchased an 8-ball brand skating helmet and goggles.

OVERT ACT NO. (07): On or about January 9, 2021, prior to arriving in Pacific Beach, FARAZ MARTIN TALAB stopped at Big 5 Sporting Goods in Long Beach, California, and purchased four canisters of a tear gas weapon by brand "Sabre Running Gel."

OVERT ACT NO. (08): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, FARAZ MARTIN TALAB, and BRYAN RIVERA discussed traveling to Pacific Beach.

OVERT ACT NO. (09): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, FARAZ MARTIN TALAB, and BRYAN RIVERA traveled from Los Angeles County and arrived in Pacific Beach as previously discussed.

OVERT ACT NO. (10): On or about January 9, 2021, JEREMY JONATHAN WHITE gathered black clothing, a gas mask, a tactical helmet, a tactical vest, gloves, and armed himself with a tear gas weapon.

OVERT ACT NO. (11): On or about January 9, 2021, JEREMY JONATHAN WHITE traveled to Pacific Beach.

OVERT ACT NO. (12): On or about January 9, 2021, JESSE MEREL CANNON gathered black clothing, gloves, and a mask.

OVERT ACT NO. (13): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS gathered a black long sleeve top, a shiny mask, and a black backpack.

CHARGES (cont'd)

OVERT ACT NO. (14): On or about January 9, 2021, ERICH LOUIS YACH gathered black jeans, a black shirt with the sleeves cut off, a red flannel jacket with patches, and armed himself with a tear gas weapon.

OVERT ACT NO. (15): On or about January 9, 2021, JOSEPH AUSTIN GASKINS gathered black clothing, a gas mask, and a skateboard.

OVERT ACT NO. (16): On or about January 9, 2021, SAMUEL HOWARD OGDEN gathered black clothing, a tactical helmet, a black mask, and armed himself with a wooden walking stick.

OVERT ACT NO. (17): Uncharged coconspirator Jonah Bigel gathered black clothing, a mask, and armed himself with a baseball bat with the Twisted Tea logo.

OVERT ACT NO. (18): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, JOSEPH AUSTIN GASKINS, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, ERICH LOUIS YACH, uncharged Coconspirator Jonah Bigel, and or one or more unidentified coconspirators gathered in Pacific Beach.

INCIDENT ONE

OVERT ACT NO. (19): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. initiated an attack by spraying victim S.G., victim H.T., victim A.F, and unidentified victim one with a tear gas weapon.

OVERT ACT NO. (20): On or about January 9, 2021, LUIS FRANCISCO MORA sprayed unidentified victim one with a tear gas weapon.

OVERT ACT NO. (21): On or about January 9, 2021, CHRISTIAN MARTINEZ sprayed unidentified victim one with a tear gas weapon.

OVERT ACT NO. (22): On or about January 9, 2021, SAMUEL HOWARD OGDEN initiated an attack on victim S.G.

OVERT ACT NO. (23): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, SAMUEL HOWARD OGDEN, BRYAN RIVERA, ERICH LOUIS YACH, and other unidentified coconspirators participated in a group attack on victim S.G.

OVERT ACT NO. (24): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, ERICH LOUIS YACH, and other unidentified coconspirators participated in a group attack on S.M./unidentified victim two.

OVERT ACT NO. (25): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, LUIS FRANCISCO MORA, BRYAN RIVERA, FARAZ MARTIN TALAB, ERIC LOUIS YACH, and other unidentified coconspirators participated in a group attack on victim E.H.

CHARGES (cont'd)

OVERT ACT NO. (26): On or about January 9, 2021, ERICH LOUIS YACH kicked S.M./unidentified victim two while unidentified victim two was on the ground.

OVERT ACT NO. (27): On or about January 9, 2021, BRYAN RIVERA punched S.M./unidentified victim two while S.M./unidentified victim two was on the ground.

OVERT ACT NO. (28): On or about January 9, 2021, ERICH LOUIS YACH sprayed S.M./unidentified victim two with a tear gas weapon.

OVERT ACT NO. (29): On or about January 9, 2021, ERICH LOUIS YACH sprayed victim E.H. with a tear gas weapon.

OVERT ACT NO. (30): On or about January 9, 2021, LUIS FRANCISCO MORA sprayed victim E.H. with a tear gas weapon.

INCIDENT TWO

OVERT ACT NO. (31): On or about January 9, 2021, LUIS FRANCISCO MORA and other unidentified coconspirators confronted unidentified victim three as he walked his dog down the boardwalk.

OVERT ACT NO. (32): On or about January 9, 2021, JEREMY JONATHAN WHITE sprayed unidentified victim three and his dog with a tear gas weapon.

INCIDENT THREE

OVERT ACT NO. (33): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, JOSEPH AUSTIN GASKINS, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, ERICH LOUIS YACH, uncharged coconspirator Jonah Bigel and other unidentified coconspirators traveled up the board walk while some members of the group chanted Antifa related slogans, including but not limited to "ALL COPS ARE BASTARDS" and "ACAB."

OVERT ACT NO. (34): On or about January 9, 2021, FARAZ MARTIN TALAB confronted victim J.C. for using his cell phone to film.

OVERT ACT NO. (35): On or about January 9, 2021, FARAZ MARTIN TALAB slapped at victim J.C.'s phone.

OVERT ACT NO. (36): On or about January 9, 2021, FARAZ MARTIN TALAB brandished a tear gas weapon against victim J.C.

OVERT ACT NO. (37): On or about January 9, 2021, FARAZ MARTIN TALAB slapped victim J.C.'s phone out of his hand.

CHARGES (cont'd)

OVERT ACT NO. (38): On or about January 9, 2021, JEREMY JONATHAN WHITE confronted victim J.C.

OVERT ACT NO. (39): On or about January 9, 2021, FARAZ MARTIN TALAB, LUIS FRANCISCO MORA, JEREMY JONATHAN WHITE, ERICH LOUIS YACH, and other unidentified coconspirators surrounded victim J.C.

OVERT ACT NO. (40): On or about January 9, 2021, an unidentified coconspirator grabbed victim J.C.'s phone out of his hands.

OVERT ACT NO. (41): On or about January 9, 2021, LUIS FRANCISCO MORA attempted to punch victim J.C.

OVERT ACT NO. (42): On or about January 9, 2021, an unidentified coconspirator sprayed victim J.C. with a tear gas weapon.

INCIDENT FOUR

OVERT ACT NO. (43): On or about January 9, 2021, JESSE MEREL CANNON photographed victim M.A., victim T.G., unidentified victim four, and unidentified victim five.

OVERT ACT NO. (44): On or about January 9, 2021, JESSE MEREL CANNON pointed out victims M. A., T.G., unidentified victim four, and unidentified victim five to the other coconspirators.

OVERT ACT NO. (45): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, uncharged coconspirator Jonah Bigel, and other unidentified coconspirators surrounded victims M.A., T.G., unidentified victim four, and unidentified victim five.

OVERT ACT NO. (46): On or about January 9, 2021, JESSE MEREL CANNON initiated an attack by yelling "Proud Boy Killa."

OVERT ACT NO. (47): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. sprayed victims M.A., T.G., unidentified victim four, and unidentified victim five with a tear gas weapon.

OVERT ACT NO. (48): On or about January 9, 2021, an unidentified coconspirator sprayed victim T.G. in the face with a tear gas weapon.

OVERT ACT NO. (49): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. shoved victim T.G. in the back.

OVERT ACT NO. (50): On or about January 9, 2021, JESSE MEREL CANNON threw a wooden lawn chair at victim M.A.'s head and shoulders, striking victim M.A.

CHARGES (cont'd)

OVERT ACT NO. (51): On or about January 9, 2021, LUIS FRANCISCO MORA sprayed victim M.A. in the face with a tear gas weapon.

OVERT ACT NO. (52): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. shoved victim M.A. to the ground.

OVERT ACT NO. (53): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. attempted to kick victim M.A. while she was on the ground.

OVERT ACT NO. (54): On or about January 9, 2021, an unidentified coconspirator struck victim M.A. with a flagpole.

OVERT ACT NO. (55): On or about January 9, 2021, SAMUEL HOWARD OGDEN brandished a walking stick at victim M.A.

OVERT ACT NO. (56): On or about January 9, 2021, an unidentified coconspirator threw a Twisted Tea can at victims T.G. and unidentified victim four.

OVERT ACT NO. (57): On or about January 9, 2021, an unidentified coconspirator threw a glass beer bottle at victims T.G. and unidentified victim four.

OVERT ACT NO. (58): On or about January 9, 2021, JESSE MEREL CANNON threw a glass beer bottle at unidentified victim four.

OVERT ACT NO. (59): On or about January 9, 2021, uncharged coconspirator Jonah Bigel struck victim T.G. with a baseball bat with the Twisted Tea logo.

OVERT ACT NO. (60): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS threw a can of Twisted Tea into unidentified victim four's back.

OVERT ACT NO. (61): On or about January 9, 2021, JESSE MEREL CANNON threw a can of Twisted Tea toward victims M.A. and T.G.

OVERT ACT NO. (62): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. swung a closed fist toward victim four's head.

OVERT ACT NO. (63): On or about January 9, 2021, an unidentified coconspirator threw several punches into unidentified victim four's head.

OVERT ACT NO. (64): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. kicked unidentified victim four.

CHARGES (cont'd)

OVERT ACT NO. (65): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. kicked unidentified victim five.

OVERT ACT NO. (66): On or about January 9, 2021, after assaulting victims M.A., T.G., unidentified victim four, and unidentified victim five, BRIAN CORTEZ LIGHFOOT JR., BRYAN RIVERA, and other unknown coconspirators chased victims M.A., T.G., unidentified victim four, and unidentified victim five on foot.

INCIDENT FIVE

OVERT ACT NO. (67): On or about January 9, 2021, JEREMY JONATHAN WHITE pointed out victim R.L. to the other coconspirators.

OVERT ACT NO. (68): On or about January 9, 2021, JESSE MEREL CANNON initiated the attack by shoving victim R.L. from his bicycle to the ground.

OVERT ACT NO. (69): On or about January 9, 2021, JESSE MEREL CANNON, FARAZ MARTIN TALAB, SAMUEL HOWARD OGDEN, JEREMY JONATHAN WHITE, ERICH LOUIS YACH, and several unidentified coconspirators moved to surround victim R.L.

OVERT ACT NO. (70): On or about January 9, 2021, an unidentified coconspirator kicked victim R.L. while on the ground.

OVERT ACT NO. (71): On or about January 9, 2021, uncharged coconspirator Fadhil A. swung his skateboard at victim J.C.

OVERT ACT NO. (72): On or about January 9, 2021, ERICH LOUIS YACH assaulted victim R.L. with a stun gun.

OVERT ACT NO. (73): On or about January 9, 2021, unidentified coconspirators vandalized victim R.L.'s bike.

OVERT ACT NO. (74): On or about January 9, 2021, ERICH LOUIS YACH used a tear gas weapon against victims R.L. and J.C.

OVERT ACT NO. (75): On or about January 9, 2021, SAMUEL HOWARD OGDEN handed off his walking stick to BRIAN CORTEZ LIGHFOOT JR.

OVERT ACT NO. (76): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. struck victim J.C. across the back with the walking stick.

INCIDENT SIX

OVERT ACT NO. (77): On or about January 9, 2021, uncharged coconspirator Jonah Bigel used a baseball bat with the Twisted Tea logo to vandalize the Skechers store front window.

CHARGES (cont'd)

INCIDENT SEVEN

OVERT ACT NO. (78): On or about January 9, 2021, ALEXANDER AKRDIGEJACOBS, JESSE MEREL CANNON, JOSEPH AUSTIN GASKINS, BRIAN CORTEZ LIGHFOOT, JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, ERICH LOUIS YACH, uncharged coconspirator Jonah Bigel, and/or one or more other unidentified coconspirators refused to disperse after the San Diego Police Department declared an unlawful assembly.

OVERT ACT NO. (79): On or about January 9, 2021, JOSEPH AUSTIN GASKINS threw objects at police officers.

OVERT ACT NO. (80): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. threw objects at police officers.

OVERT ACT NO. (81): On or about January 9, 2021, an unidentified coconspirator threw a glass beer bottle at police officers.

INCIDENT EIGHT

OVERT ACT NO. (82): On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, BRIAN CORTEZ LIGHFOOT JR., LUIS FRANCISCO MORA, CHRISTIAN MARTINEZ, and other unidentified coconspirators moved to surround victim N.K.

OVERT ACT NO. (83): On or about January 9, 2021, an unidentified coconspirator used her umbrella to block victim N.K.'s escape and to obstruct observations of the attack.

OVERT ACT NO. (84): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. sprayed victim N.K. with a tear gas weapon.

OVERT ACT NO. (85): On or about January 9, 2021, after the assault on victim N.K., ALEXANDER AKRIDGEJACOBS, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA, and other unidentified coconspirators chased victim N.K. up the street.

INCIDENT NINE

OVERT ACT NO. (86): On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, FARAZ MARTIN TALAB, and several other unidentified coconspirators surrounded unidentified victim six while he was on the ground.

OVERT ACT NO. (87): On or about January 9, 2021, an unidentified coconspirator kicked unidentified victim six in the ribs while he was on the ground.

OVERT ACT NO. (88): On or about January 9, 2021, FARAZ MARTIN TALAB rushed forward and grabbed unidentified victim seven to prevent him from helping unidentified victim six who was on the ground.

CHARGES (cont'd)

OVERT ACT NO. (89): On or about January 9, 2021, FARAZ MARTIN TALAB and unidentified coconspirators chased unidentified victim seven.

OVERT ACT NO. (90): On or about January 9, 2021, an unidentified coconspirator punched unidentified victim seven in the back of the head.

OVERT ACT NO. (91): On or about January 9, 2021, unidentified coconspirators threw unidentified victim seven to the ground.

OVERT ACT NO. (92): On or about January 9, 2021, JOSEPH AUSTIN GASKINS struck unidentified victim seven in the head with a skateboard while unidentified victim seven was on the ground.

OVERT ACT NO. (93): On or about January 9, 2021, CHRISTIAN MARTINEZ threw a can of Twisted Tea at unidentified victim six while he was on the ground.

INCIDENT TEN

OVERT ACT NO. (94): On or about January 9, 2021, JEREMY JONATHAN WHITE sprayed an unidentified victim eight with a tear gas weapon.

OVERT ACT NO. (95): On or about January 9, 2021, SAMUEL HOWARD OGDEN physically confronted a police officer who was attempting to make an arrest of an unidentified female coconspirator.

OVERT ACT NO. (96): On or about January 9, 2021, an unidentified coconspirator sprayed police officers with a tear gas weapon.

OVERT ACT NO. (97): On or about January 9, 2021, unidentified coconspirators grabbed an unidentified male coconspirator from police officers who were attempting to arrest the unidentified male coconspirator.

OVERT ACT NO. (98): On or about January 9, 2021, ERICH LOUIS YACH and other unidentified conspirators surrounded the unidentified male coconspirator to conceal his identity and prevent his arrest.

OVERT ACT NO. (99): On or about January 9, 2021, unidentified conspirators provided a change of clothing to the unidentified male coconspirator.

OVERT ACT NO. (100): On or about January 9, 2021, the unidentified male coconspirator changed his clothing and successfully avoided arrest.

INCIDENT ELEVEN

OVERT ACT NO. (101): On or about January 9, 2021, CHRISTIAN MARTINEZ, FARAZ MARTIN TALAB, LUIS FRANCISCO MORA, and BRYAN RIVERA confronted victim C.B.

CHARGES (cont'd)

OVERT ACT NO. (102): On or about January 9, 2021, FARAZ MARTIN TALAB initiated a physical confrontation by swiping at victim C.B.

OVERT ACT NO. (103): On or about January 9, 2021, BRYAN RIVERA grabbed victim C.B. and delivered a knee strike.

OVERT ACT NO. (104): On or about January 9, 2021, LUIS FRANCISCO MORA struck victim C.B. in the face with his hand.

OVERT ACT NO. (105): On or about January 9, 2021, CHRISTIAN MARTINEZ sprayed victim C.B. with a tear gas weapon.

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 2 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on S.G., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 3 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on H.T., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 4 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on A.F., in violation of PENAL CODE SECTION 22810(g)(1).

CHARGES (cont'd)

COUNT 5 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on unidentified victim one, in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 6 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, LUIS FRANCISCO MORA did unlawfully use tear gas and a tear gas weapon on unidentified victim one, in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 7 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, CHRISTIAN MARTINEZ did unlawfully use tear gas and a tear gas weapon on unidentified victim one, in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 8 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, LUIS FRANCISCO MORA, and ERICH LOUIS YACH did unlawfully commit an assault upon S.G. by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 9 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, LUIS FRANCISCO MORA, BRYAN RIVERA, and ERICH LOUIS YACH did unlawfully commit an assault upon S.M./unidentified victim two by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

CHARGES (cont'd)

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 10 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, LUIS FRANCISCO MORA, BRYAN RIVERA, and ERICH LOUIS YACH did unlawfully commit an assault upon E.H. by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 11 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, ERICH LOUIS YACH did unlawfully use tear gas and a tear gas weapon on S.M./unidentified victim two, in violation of PENAL CODE SECTION 22810(g)(1).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 12 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, ERICH LOUIS YACH did unlawfully use tear gas and a tear gas weapon on E.H., in violation of PENAL CODE SECTION 22810(g)(1).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

CHARGES (cont'd)

COUNT 13 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, LUIS FRANCISCO MORA did unlawfully use tear gas and a tear gas weapon on E.H., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 14 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on M.A., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 15 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on T.G., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 16 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on unidentified victim four, in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 17 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on unidentified victim five, in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 18 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, LUIS FRANCISCO MORA did unlawfully use tear gas and a tear gas weapon on M.A., in violation of PENAL CODE SECTION 22810(g)(1).

COUNT 19 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA, and FARAZ MARTIN TALAB did unlawfully commit an assault upon M.A. by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

CHARGES (cont'd)

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, JESSE MEREL CANNON, personally used a dangerous and deadly weapon, to wit: a folding chair, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, JESSE MEREL CANNON, personally used a dangerous and deadly weapon, to wit: a Twisted Tea can, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

COUNT 20 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., SAMUEL HOWARD OGDEN, BRYAN RIVERA, and FARAZ MARTIN TALAB did unlawfully commit an assault upon T.G. by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 21 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, ALEXANDER AKRIDGEJACOBS, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., and BRYAN RIVERA did unlawfully commit an assault upon unidentified victim four by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, ALEXANDER AKRIDGEJACOBS, personally used a dangerous and deadly weapon, to wit: a Twisted Tea can, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, JESSE MEREL CANNON, personally used a dangerous and deadly weapon, to wit: a glass bottle, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

CHARGES (cont'd)

COUNT 22 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, JESSE MEREL CANNON, BRIAN CORTEZ LIGHFOOT JR., FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, and ERICH LOUIS YACH did unlawfully commit an assault upon R.L. by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 23 - ASSAULT WITH STUN GUN OR LESS LETHAL WEAPON

On or about January 9, 2021, ERICH LOUIS YACH did unlawfully assault R.L. with a stun gun and less lethal weapon as defined in Penal Code section 12601, in violation of PENAL CODE SECTION 244.5(b).

And it is further alleged that the above felony offense was committed while the said defendant, ERICH LOUIS YACH, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CS316609), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 24 - ASSAULT WITH DEADLY WEAPON

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. and SAMUEL HOWARD OGDEN did unlawfully commit an assault upon J.C. with a deadly weapon and instrument, in violation of PENAL CODE SECTION 245(a)(1).

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, BRIAN CORTEZ LIGHFOOT JR., personally used a dangerous and deadly weapon, to wit: a stick, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

COUNT 25 - USE OF TEAR GAS, NOT IN SELF-DEFENSE

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR. did unlawfully use tear gas and a tear gas weapon on N.K., in violation of PENAL CODE SECTION 22810(g)(1).

CHARGES (cont'd)

COUNT 26 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, BRIAN CORTEZ LIGHFOOT JR., CHRISTIAN MARTINEZ, and FARAZ MARTIN TALAB did unlawfully commit an assault upon unidentified victim six by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

COUNT 27 - ASSAULT BY MEANS LIKELY TO PRODUCE GREAT BODILY INJURY

On or about January 9, 2021, JOSEPH AUSTIN GASKINS, CHRISTIAN MARTINEZ, and FARAZ MARTIN TALAB did unlawfully commit an assault upon unidentified victim seven by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

And it is further alleged that the above felony offense was committed while the said defendant, JOSEPH AUSTIN GASKINS, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD288515), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that in the commission and attempted commission of the above offense, the said defendant, CHRISTIAN MARTINEZ, personally used a dangerous and deadly weapon, to wit: a Twisted Tea can, within the meaning of PENAL CODE SECTION 1192.7(c)(23).

COUNT 28 - TAKING FROM LAWFUL CUSTODY BY MEANS OF RIOT

On or about January 9, 2021, SAMUEL HOWARD OGDEN did willfully and unlawfully take a person from the lawful custody of a peace officer by means of a riot, in violation of PENAL CODE SECTION 405a.

COUNT 29 - USE OF TEAR GAS, NOT IN SELF-DEFENSE


On or about January 9, 2021, CHRISTIAN MARTINEZ did unlawfully use tear gas and a tear gas weapon on C.B., in violation of PENAL CODE SECTION 22810(g)(1).

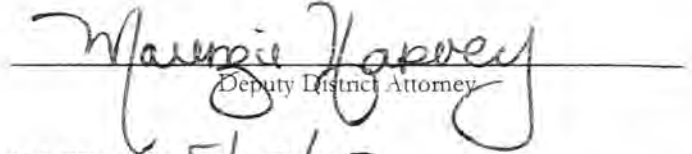
THIS INDICTMENT, NUMBERED SCD274477, CONSISTS OF 29 COUNTS.

"A TRUE BILL"

Summer Stephan

District Attorney, County of San Diego, State of California


Foreman of the Grand Jury


Deputy District Attorney

DATE: 5/23/22

DATE: 5/23/22

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

JESSE MEREL CANNON,

Defendant.

Case No. CD301475

PROTECTIVE ORDER

FILED
Clerk of the Superior Court
DEC 04 2023
By: C. Perez, Deputy

IT IS HEREBY ORDERED, as follows:

The following Protective Order shall govern the use and disclosure of the Law Enforcement Generated Video ("Video"), including CHP MVARs and/or Body Worn Camera, produced in accordance with discovery disclosure under the laws of California in the case of *People v. JESSE MEREL CANNON*, Case No. CD301475

Except by further order of this Court:

1. The Video shall not be used in any proceeding other than the instant case.
2. The Video shall not be downloaded or inputted into any computer program or internet website subsequent to the issuance of this order. This does not apply to any computer program maintained and used specifically for this criminal action.
3. This Protective Order shall not prevent authorized individuals from having access to a Video to which they would have had access in the normal course of their duties.
4. No copy shall be provided to a defendant or witness, without further order of the court. A copy may be provided to investigators, experts, or consultants retained by any party to work on this case. Any such copies shall be destroyed by the investigator, expert or consultant upon the final termination of this case. Confirmation of the destruction will be provided to the defense counsel.
5. Disclosure of the Video recording shall be limited to the following persons: any counsel, party, defendant, or witness in this case, and legal interns, investigators, experts or

1 consultants retained or used by any party to work on this case.

2 6. Counsel for any party to this action shall advise those individuals to whom disclosure
3 of the Video is made of the terms of the Protective Order, and obtain the consent of any such
4 individual that he/she will be bound by the Protective Order. In the event such individual does
5 not consent to be bound by the Protective Order, no disclosure of the recording or its contents
6 will be made.

7 7. Defense counsel shall not provide to the Defendant or a witness, either orally or in
8 writing, any personal identifying information as defined in Penal Code section 530.55(b) and/or
9 pursuant to Penal Code section 1054.2, except names, of any person identified within the Video.

10 8. This Protective Order is binding on the Offices of the Public Defender, the Alternate
11 Public Defender, Office of Assigned Counsel, Multiple Conflicts, and retained private attorneys.

12 9. This Protective Order and the obligations of all persons subject to it, shall survive the
13 final termination of this case, whether such termination is by settlement, judgment, dismissal,
14 appeal, or otherwise. The Court retains jurisdiction to modify this order and to make further
15 orders regarding the custody, control, and use of the Video.

16 10. Parties to this case have stipulated in open court to the terms of this Protective Order.

17 IT IS SO ORDERED.

18
19 Dated: DEC 04 2023



Judge of the Superior Court

20
21 THEODORE M. WEATHERS



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

FILED
REC 04 2023
By: C. Perez, Deputy

ADVISAL OF CONSTITUTIONAL AND OTHER RIGHTS

People of the State of California vs. JESSE CANNON Case No. CD301479

1. I have been advised of and I understand the following constitutional rights that apply to all criminal cases:
 - a. The right to a speedy and public trial;
 - b. The right to remain silent and not incriminate myself;
 - c. The right to confront and cross-examine all witnesses against me;
 - d. The right at the trial to present evidence in my favor which includes the right to have witnesses subpoenaed to testify in my behalf and to obtain all evidence that may exonerate me; and
 - e. The right in misdemeanor or felony cases to be tried by a jury of twelve people.

I understand that if I plead guilty or no contest, I waive and give up all of the rights listed above.
2. I understand I have a right to have an attorney defend me at all stages of the proceedings for a criminal case, and if my case involves a misdemeanor or felony and I cannot afford an attorney the court will appoint an attorney to represent me.
3. I understand that in infraction and misdemeanor cases I have a right to be sentenced no sooner than six hours and no later than five days after a guilty or no contest plea, or a verdict.
4. I understand that I have a right to have a trial before a judge (felonies/misdemeanors) or court commissioner (infractions). If I am charged with a misdemeanor, I agree that a duly appointed court commissioner may act as a temporary judge and take all pleas, decide all motions, and sentence me in this case.
5. I understand that while I am subject to additional statutory fines and penalties, the basic potential penalties include:
 - a. For an infraction, up to \$250 on each first offense, unless otherwise specified by statute;
 - b. For a misdemeanor, up to 364 days in jail and/or \$1,000, unless otherwise specified by statute;
 - c. If applicable, restitution to the victim or to the Restitution Fund;
 - d. For a failure to appear/pay fine, a civil penalty of up to \$100, the issuance of an arrest/bench warrant, new charges, or the imposition of a civil assessment per Pen. Code, §1214.1 with referral to a collection agency.
6. If I am not a citizen and am convicted of a misdemeanor or felony it may result in my deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
7. If charged with an infraction violation of Pen. Code, §§ 193.8, 272(b)(1), 330, 415, 485, 490.1, 490.7, 555, 532b(c), 602(o), 602.13, or 853.7; Bus. & Prof. Code, §§ 2052, 2054, 2630, 2903, 3660, 3760, 3761, 4080, 4825, 4935, 4980, 4996, 5536, 6704, 6980.10, 7317, 7502, 7574.10, 7582, 7592, 7520, 7617, 7641, 7872(a), 8016, 8505, 8725, 9681, 9840, 9891.24(c), 19049, 21672, 25658(b), 25661 or 25662; Gov. Code, § 27204; or Veh. Code, §§ 5201.1, 12500, 14601.1, 23109(c), 27150.1, 40508 or 42005; I understand I have the right to elect to have the case proceed as a misdemeanor and, if I so elect, I would have all the rights and be subject to the potential penalties associated with a misdemeanor prosecution, and that I will be ordered to appear in court on a future date. I also understand that the prosecuting agency may not have reviewed my case before the Citation/Notice to Appear was filed with the court and that, if I elect to proceed as a misdemeanor, the prosecuting agency might review my case and add, delete or amend the charges.
8. I understand that there are certain provisions of law specifically designed for individuals who have "active duty or veteran status" (active military duty service, reserve duty status, National Guard service, and veteran status) and who have been charged with a misdemeanor or felony. (See Pen. Code, §§ 1001.80, 1170.9, 1170.91.) If I have active duty or veteran status, I may request a copy of the Judicial Council's Notification of Military Status form (JC Form #MIL-100) that explains my rights, and I may file that form with the court so that my active duty or veteran status is on file with the court. The form is also available online at www.courts.ca.gov. If I file a Notification of Military Status form (JC Form #MIL-100) with the court, I understand I must serve a copy of the form on the prosecuting attorney and defense counsel. The court will transmit a copy of the form to the county's Veterans Service Office for confirmation of my military service. The court will also transmit a copy of the form to the Department of Veterans Affairs. I understand I should consult with an attorney prior to submitting the Notification of Military Status form (JC Form #MIL-100) and I may, without penalty, decline to provide this information to the court.

I declare under penalty of perjury under the laws of the State of California that I have read and understand my rights as set forth above.

Date: 12-4-23

[Signature]
Signature of Defendant

I, _____, having duly been sworn, truly translated this form to the defendant in the _____ language. (S)he indicated that (s)he understood the contents and then signed it.

Date: _____

Signature of Interpreter

I, Lauren Angelos, have advised this defendant of all rights referred to above.

Date: 12/04/23

[Signature]
Signature of Attorney

The undersigned, certifying upon information and belief, complains that in the County of San Diego, State of California, the Defendant(s) did commit the following crime(s):

CHARGES

COUNT 1 - ASSAULT WITH DEADLY WEAPON

On or about November 11, 2023, JESSE MEREL CANNON did unlawfully commit an assault upon J. L. with a deadly weapon and instrument, in violation of PENAL CODE SECTION 245(a)(1).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number SCD274477), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 2 - VANDALISM OVER \$400

On or about November 11, 2023, JESSE MEREL CANNON did unlawfully and maliciously damage and destroy real and personal property not his or her own, and the amount of defacement, damage, and destruction was four hundred dollars (\$400) or more, in violation of PENAL CODE SECTION 594(a)(b)(1).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number SCD274477), within the meaning of PENAL CODE SECTION 12022.1(b).

And it is further alleged that the above felony offense was committed while the said defendant, JESSE MEREL CANNON, was released from custody on bail, and on his own recognizance pending final judgment on an earlier felony offense (Court Case Number CD289426), within the meaning of PENAL CODE SECTION 12022.1(b).

COUNT 3 - EXHIBITING A DEADLY WEAPON OTHER THAN A FIREARM

On or about November 11, 2023, JESSE MEREL CANNON was a person who, not in self-defense, in the presence of another person, to wit: J. L., did unlawfully draw and exhibit a deadly weapon, to wit: a knife, in a rude, angry and threatening manner in violation of PENAL CODE SECTION 417(a)(1).

COUNT 4 - BATTERY

On or about November 11, 2023, JESSE MEREL CANNON did willfully and unlawfully use force and violence upon the person of J. L., in violation of PENAL CODE SECTION 242.

NOTICE: Any defendant named on this complaint who is on criminal probation in San Diego County is, by receiving this complaint, on notice that the evidence presented to the court at the preliminary hearing on this complaint is presented for a dual purpose: the People are seeking a holding order on the charges pursuant to Penal Code Section 872 and simultaneously, the People are seeking a revocation of the defendant's probation, on any and all such probation grants, utilizing the same evidence, at the preliminary hearing. Defenses to either or both procedures should be considered and presented as appropriate at the preliminary hearing.

NOTICE: Any defendant named on this complaint who is on Mandatory Supervision in San Diego County is, by receiving this complaint, on notice that the evidence presented to the court at the preliminary hearing on this complaint is presented for a dual purpose: the People are seeking a holding order on the charges pursuant to Penal Code Section 872 and simultaneously, the People are seeking a revocation of the defendant's Mandatory Supervision pursuant to Penal Code Sections 1170(h)(5)(B) and 1203.2, on any and all such grants, utilizing the same evidence, at the preliminary hearing. Defense to either or both procedures should be considered and presented as appropriate at the preliminary hearing.

Pursuant to PENAL CODE SECTION 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by PENAL CODE SECTION 1054.3.

MANDATORY STATE PRISON INCARCERATION: An executed sentence for a felony shall be served by defendant JESSE MEREL CANNON in state prison pursuant to PENAL CODE SECTIONS 1170(f) and (h)(3).

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER CD301475, CONSISTS OF 4 COUNTS.

Executed at City of San Diego, County of San Diego, State of California, on December 1, 2023.


COMPLAINANT

INFORMATION

SUMMER STEPHAN
District Attorney
County of San Diego
State of California
by:

Date

Deputy District Attorney

1 MARK G. SPENCER, BAR #199134
LAW OFFICE OF MARK G. SPENCER
2 451 A STREET, SUITE 1600
SAN DIEGO, CALIFORNIA 92101
3 (619) 997-6275
mspencerlaw@hotmail.com

FILED
CLERK OF SUPERIOR COURT

NOV 18 2022

By: T. Lancaster, Deputy

4 Attorney for Defendant Luis Mora
5

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SAN DIEGO
8 CENTRAL DIVISION - CRIMINAL

9 Case No.: SCD274477

10 PEOPLE OF THE STATE OF
11 CALIFORNIA,

MITIGATION PACKAGE
FOR LUIS MORA

12 Plaintiff,

13 vs.

14 LUIS MORA,

Judge: Hon. D. Goldstein

Dept.: 1102

Date: 11/18/2022

Time: 1:30 pm

15 Defendant.
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20 MITIGATION PACKAGE

21 On or about January 9, 2021, there was an incident where a liberal group (or groups) appeared
22 in Pacific Beach, San Diego, California, to stage a counter-protest against a conservative group (or
23 groups).

24 It is alleged that Mr. Luis Mora took part in this counter-protest. Mr. Mora has been indicted and
25 faces four counts of Penal Code ("PC") § 245(a)(4) and three counts of PC § 22810(g)(1).

26 The parties are still attempting to negotiate a resolution to this case. However, the negotiations
27 are at an impasse.

1 Mr. Mora is filing this package with the court to show why the parties should settle this matter
2 in a reasonable manner.

3 PERSONAL LIFE

4 Mr. Mora lives with his mother and family in Los Angeles.

5 Mr. Mora does not have any criminal record that has been produced in discovery.

6 As can be seen in the numerous letters of support that accompany this mitigation package, Mr.
7 Mora is well thought of in his community. Mr. Mora helps support his family both personally and
8 financially while still aiding the local Los Angeles community.

9 Mr. Mora also enjoys bicycling as a form of exercise.

10 PROFESSIONAL LIFE

11 Mr. Mora is a high school graduate and has studying graphic art in college.

12 Mr. Mora is employed full time at the Hotel Irwin in Venice, near Los Angeles.

13 Mr. Mora spends his free time volunteering in his community. Mr. Mora is active in
14 volunteering to provide food and clothing for the homeless in Los Angeles. Mr. Mora has been doing
15 his volunteer work for several years.

16 PROBATION IS APPROPRIATE IN THIS MATTER

17 As previously stated, Mr. Mora does not have any criminal record that was produced in
18 discovery. Mr. Mora has obviously not been sentenced to prison nor has he spent much time in local
19 custody.

20 Mr. Mora has a stable place to live with his family.

21 Mr. Mora is working a full time job at the Hotel Irwin.

22 Mr. Mora enjoys social activities such as biking and volunteering in his community.

23 Assuming the allegations against Mr. Mora in the indictment are true, state prison would not be
24 the proper remedy in this situation. For the most part, Mr. Mora was a follower in the above incident
25 and the incidents that he allegedly participated were much less serious than some of the co-defendants
26 who are involved in this case.

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RESOLUTION

This matter should be settled as a probation case with an opportunity in the future for Mr. Mora to earn misdemeanors for any charges to which he pleads. Mr. Mora had no criminal record to this point. He has steady full time employment and a stable place to live with his family. Mr. Mora has a lot of support from his friends and the Los Angeles community as can be seen from the numerous letters of support that are attached to this pleading.

November 16, 2022
Date


Mark G. Spencer
Attorney for Defendant
Luis Mora

1 SUMMER S. STEPHAN
District Attorney
2 MAKENZIE R. HARVEY, SBN216508
Deputy District Attorney
3 WILLIAM HOPKINS, SBN311055
Deputy District Attorney
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9 Attorneys for Plaintiff

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO
12 CENTRAL DIVISION

13 THE PEOPLE OF THE STATE OF CALIFORNIA,
14 Plaintiff,

15 v.

16 (ALEXANDER ACKRIDGEJACOBS), JESSE
MEREL CANNON, BRIAN CORTEZ
CHRISTIAN MARTINEZ),
SAMUEL
RA),

JIS

Defendants.

Case No. SCD274477
DA No. AEX741

**PEOPLE'S OPPOSITION TO
DEFENDANTS' LIGHTFOOT,
WHITE, AND CANNON MOTIONS
TO SET ASIDE INDICTMENT**

Date: September 12, 2023
Time: 9:00 a.m.
Dept.: 1102
Time Estimate: Half Day

People of the State of California, by and through their
Attorney, MAKENZIE R. HARVEY, Deputy District
District Attorney, and EVAN ANDERSEN, Deputy
s the following OPPOSITION TO DEFENDANTS'
MOTIONS TO SET ASIDE INDICTMENT.

FILED

SEP 01 2023

By: T. Lancaster, Deputy

COPY
PAGES 1 thru 99

1 **INTRODUCTION**

2 Defendants LIGHTFOOT, WHITE, and CANNON have moved to set aside the
3 indictment against them. Under the proper standard of review, this Court should find that the
4 Grand Jury heard more than sufficient evidence as to the existence of each element of every
5 charged offense. Additionally, the evidence of guilt heard by the Grand Jury was competent and
6 overwhelming, enabling the Grand Jury to properly find a strong and rational suspicion of guilt.
7 The evidence presented was both relevant and admissible. Based on the evidence and all
8 inferences drawn in favor of the indictment, this Court must deny Defendants' motion, and
9 allow the case to proceed to jury trial.

10 **STATEMENT OF THE CASE**

11 On May 25, 2021, BRIAN CORTEZ LIGHTFOOT JR. was arraigned in case
12 number CD290099/AET943 for multiple felony offenses committed on January 9, 2021, in
13 Pacific Beach. JESSE MEREL CANNON was arraigned as a co-defendant on the same felony
14 complaint on June 6, 2021. Both pled not guilty.

15 On December 6, 2021, case CD290099/AET943 was dismissed as to Defendants
16 LIGHTFOOT and CANNON, and the case re-filed under case number CD292607/AEW197.
17 This felony complaint added nine additional Defendants: ALEXANDER AKRIDGEJACOBS,
18 JOSEPH AUSTIN GASKINS, CHRISTIAN MARTINEZ, LUIS FRANCISCO MORA,
19 SAMUEL HOWARD OGDEN, BRYAN RIVERA, FARAZ MARTIN TALAB, JEREMY
20 JONATHAN WHITE, and ERICH LOUIS YACH. All defendants were charged in Count 1 with
21 a felony violation of Penal Code section 182, subdivision (a)(1), Conspiracy to Commit Riot,
22 among various other felony offenses. All defendants pled not guilty.

23 On May 2, 2022, San Diego County criminal Grand Jury 22-04 began hearing
24 evidence in this matter. After two and a half weeks of hearing evidence, the Grand Jury found an
25 indictment and endorsed the true bill on May 23, 2022. The Grand Jury returned an indictment
26 for twenty-nine counts against defendants ALEXANDER AKRIDGEJACOBS, JESSE MEREL
27 CANNON, JOSEPH AUSTIN GASKINS, BRIAN CORTEZ LIGHTFOOT JR., CHRISTIAN
28 MARTINEZ, LUIS FRANCISCO MORA, SAMUEL HOWARD OGDEN, BRYAN RIVERA,

1 FARAZ MARTIN TALAB, JEREMY JONATHAN WHITE, and ERICH LOUIS YACH
2 (“Defendants,” unless otherwise specified by name), including various sentencing
3 enhancements. Each Defendant, with the exception of Defendant Gaskins, was indicted on
4 Count 1, Conspiracy to Commit Riot.

5 An arraignment on indictment occurred June 7, 2022. Defendants pled not guilty.

6 On September 28, 2022, Defendant Yach pled guilty to multiple felony counts
7 including Count 1, Conspiracy to Commit Riot. On November 18, 2022, Defendants
8 Akridgejacobs, Gaskins, Martinez, Ogden, and Rivera pled guilty to various felony counts, each
9 including Count 1, Conspiracy to Commit Riot. They are awaiting sentencing.

10 On August 15, 2023, over one year following his arraignment on indictment,
11 Defendant Lightfoot through his counsel filed a Notice of Motion and Motion to Dismiss
12 Indictment (“Lightfoot Motion”). On August 24, 2021, Defendant White through his counsel
13 filed a Notice of Motion and Motion to Dismiss Indictment, and joined Defendant Lightfoot’s
14 motion (“White Motion”). On August 29, 2021, Defendant Cannon through his counsel filed a
15 Notice of Motion and Motion to Dismiss Indictment, and joined Defendant Lightfoot and
16 White’s motions (“Cannon Motion”). The People hereby respond to all three motions.

17 **STATEMENT OF FACTS**

18 All citations are in reference to the reporter’s Certified Grand Jury Transcript
19 (“R.T.”) or Grand Jury exhibits (“Exhibit __”). A copy of the Grand Jury Exhibit List is
20 attached as ATTACHMENT ONE. A copy of the Grand Jury exhibits referenced in this motion
21 are attached as ATTACHMENT TWO.

22 **Invitation to Riot**

23 A Pro-Trump “Patriot March” event for January 9, 2021 was advertised on social
24 media. (R.T. 249:11-14; 261:15-19.) The event was to be a flag-waving event in Pacific Beach.
25 (R.T. 249:13-14; 261:15-19.)

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1 Shortly thereafter, counter fliers began to circulate on social media with the title
2 “FUCK THE FASH.” An example of the “FUCK THE FASH” flier (*Attached herein as*
3 *“Exhibit A”*) posted on January 8, 2021, was found on an Instagram return for “Twisted Sister
4 School” which belonged to Defendant Jesse Cannon. (R.T. 1132:25-28; 1133: 1; Exhibit 18 –
5 Cannon Social Media Presentation.)



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Exhibit A



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Exhibit B

21 On January 2, 2021, an Instagram account also associated with Cannon,
22 “R.A.B.I.D_CRU,” posted a can of Twisted Tea superimposed over the Patriot March
23 (*Attached herein as “Exhibit B”*) with the caption “FUCK NAZIS.” (Exhibit 18-Cannon Social
24 Media Presentation.)

25 There were many messages posted by the Twitter account “SDAGAINSTFASH,”
26 with captions actively recruiting people to join the counterprotest at a certain place and time
27 reflected in the flier. (R.T. 261:20-24; 1002:8-13; 1094:27-28; 1095:1; 1320:14-28; 1321:1-10;
28 1356:11-15; Exhibit 18-Cannon Social Media Presentation.) On January 8, 2021,

1 “SDAGAINSTFASH” sent GPS coordinates and a map of Pacific Beach through Twitter that
2 said, “The main group intends to meet here between 12-1230...And then move to the pier at
3 1230. They MAGAts don’t plan to be there before 2, so hopefully we’ll have a decent crowd for
4 them to approach. Bloc is recommended, but soft if you’re more comfortable in it.” (R.T.
5 1321:7-28; Exhibit 18-Cannon Social Media Presentation.)

6 Law enforcement prepared for the demonstration to begin at 2 p.m. as advertised.
7 (R.T. 420:27-28; 421:1-2.) However, crowds dressed in all black began gathering over one hour
8 prior to the start of the Patriot March, between 12:30 p.m. and 1:00 p.m. (R.T. 421:5-22.)

9 Throughout the day on January 9, 2021, this black-clad group would commit
10 multiple acts of unprovoked violence. (R.T. 249:20-28; 250:1-5.)

11 **Agreement and Preparation to Riot Prior to January 9, 2021**

12 On January 4th, an Instagram account associated with Defendant Cannon,
13 “tall_cactus_snail” messaged with user “_admiral_atlas” about his plans for January 9, 2021
14 with the following, “Some nazis gonna do a rally in pb,” and “Me and the homies gonna go
15 shut that shit down,” and “If u know anybody who wanna go tell em to shoot thru.”
16 (R.T.1313:9-21; Exhibit 18-Cannons Social Media Presentation.)

17 In an exchange at approximately 11:46 p.m. on January 8, 2021, Defendant
18 Lightfoot responded to an individual with an unknown account name and explained his belief of
19 what modern-day “Black Panther” activity seemed like to him, qualifying it with “**but they are**
20 **not like how Antifa is,**” later stating, “**But me personally, imma beat a white supremacist**
21 **ass. That’s why I’m Antifa.**” (R.T.1167:22-28; 1168:1-9.)

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1 *L.A. Group Instagram Thread; Agreement to Travel to San Diego to Riot*
2 *(Overt Acts 8-9)*

3 A message thread between Lightfoot and other charged defendants was located on
4 Lightfoot's social media accounts, in which the participants planned their involvement at the
5 upcoming January 9, 2021 gatherings in Pacific beach. (R.T. 1177:4-15; Exhibit 16.) This
6 message thread began at approximately 7:03 p.m. on January 8, 2021. (R.T. 1177:13-15.)

7 The thread began with Lightfoot and Talab sharing a photo of Lightfoot standing
8 with a Trump flag holding a can of bear mace, with accompanying discussion of "destroying"
9 people with right-leaning political views or supporters of Donald Trump. (R.T. 1177:19-27.) At
10 about 7:05 p.m., Lightfoot messaged the thread stating, "**I'm tryna go to San Diego. That's**
11 **where the action gone be.**" (R.T. 1178:8-12.) Talab subsequently responded, "**With it. But**
12 **more heads the better. I'm tryna get payback. I'll even gear up. All in now.**" (R.T. 1178:18-
13 22.) At one point, Rivera asked if he could get a ride with one of the thread members. (R.T.
14 1179:2-3.)

15 In the thread, Talab messaged, "**We got to make a plan if we for real going to**
16 **roll,**" and offered to drive the thread members, to which Lightfoot responded, "**I can drive. Just**
17 **my whip. Ain't big, but F it.**" (R.T. 1179:4-8.) At 7:32 p.m., Lightfoot messaged the thread
18 stating "**I wanna fight lol.**" (R.T. 1179:14-15.) Another user named "TH3VILLAN" replied
19 with "**Me too, dog.**" (R.T.1179:16.)

20 As the thread continued, the participants coordinated their travel to San Diego, and
21 noted that additional messages were being exchanged on Signal about traveling to San Diego.
22 (R.T. 1179:17-27.) Rivera warned in the thread that, "**They gonna be strapped in deep.**" (R.T.
23 1180:2-3.) Lightfoot replied, "**Lol doubt it. That's why I got my bear mace. Big ass cans.**
24 **They gonna be deep though lol. Once I spray their ass, they're going to think twice.**" (R.T.
25 1180:3-6.) The participants continued coordinating their travel to San Diego, with Martinez
26 indicating his intent to join them, and advocating for acts of violence and theft against "Trump
27 supporters." (R.T. 1180:8-23.) Lightfoot affirmed his intend to go to San Diego with the thread
28 members, stating, "**Yeah. We going. It's going to be lit tomorrow.**" (R.T. 1180:27-28.)

1 Lightfoot then engaged in direct messages with Mora, who had been present on
2 the previous thread, continuing to plan their collective transportation to San Diego and
3 instructing one another to send specific information over Signal. (R.T. 1181:3-17; Exhibit 16.)
4 Lightfoot asked Mora, "**What type of mace you got,**" to which Mora replied with "**Bear spray.**
5 **Same can you have.**" (R.T. 1181:18-20.) Lightfoot replied, "**Ayeeeeee okay. I was just making**
6 **sure you had one. Bring it;**" Mora followed up asking Lightfoot, "**Should I take my baton**
7 **like the one you posted,**" with Lightfoot replying, "**Yeah.**" (R.T. 1181:21-26.)

8 ***Big 5 Sporting Goods Store Purchases; Agreement and Preparation to Riot***
9 ***(Overt Acts 6-7)***

10 At approximately 9:54 a.m. on January 9, 2021, Lightfoot and Mora exchanged
11 messages asking one another their location, and estimated time of arrival from an understood
12 meeting point. (R.T. 1182:1-12.) Mora sent Lightfoot a screenshot of a map from his current
13 location to Pacific Beach, with an estimated time of arrival of one hour and twelve minutes.
14 (R.T. 1182:13-15.) Lightfoot replied, "**WTF. I thought you left already,**" and Mora replied, "**I**
15 **know yo. We stopped by Big5 to buy some spray.**" (R.T. 1182:16-21.)

16 Search warrant returns from Mora's Gmail account uncovered a receipt from a Big
17 5 sporting goods store, with the date, time, and location of the purchase coinciding with the
18 message to Lightfoot. (R.T. 1667:1-12.) Detective Clark investigated these purchases. (R.T.
19 1724:9-28.) Receipts verified that Mora made a purchase on at 10:45 a.m. on January 9, 2021,
20 from a Long Beach Big 5 location for \$60.62, purchasing helmets and goggles. (R.T. 1724:9-28;
21 1725:1-22.) Within a few minutes of 10:45 a.m. on January 9, 2021, Talab purchased four
22 canisters of Sabre pepper spray from the same Big 5 store for \$35.68. (R.T. 1725:28; 1726:1-25.)

23 At 11:19 a.m. on January 9, 2021, Lightfoot sent a message to Instagram account
24 "**THE ACTIVATED PODCAST**" stating "**Got team coming from L.A..**" (R.T. 1185:20-28.)

25 Lightfoot and Mora proceeded to coordinate where they would meet in San Diego
26 and when Lightfoot indicated they were at a Ralph's store, Mora later said, "**We are at the spot**
27 **they posted on Signal,**" subsequently providing the address of 1001 Missouri. (R.T. 1182:22-28;
28 1183:1-2.) Information from Lightfoot's Google account showed he made multiple searches for

1 the location of the Pacific Beach Pier around 9:40 a.m. on January 9, 2021. (R.T. 1183:11-19.)
2 These coordinates matched an exact set of coordinates located on the phone of unindicted co-
3 conspirator Jonah Bigel. (R.T. 1183:20-28; 1184:1-6.)

4 The participants of this L.A. Group Instagram Message thread later discussed, in
5 the same thread, their actions on January 9, 2021, in Pacific Beach amongst one another. (See p.
6 5-7 above.)

7 ***Use of the "Signal" Application; Agreement and Preparation to Riot***

8 Detective Clark reviewed the Crimethinc website during her investigation which
9 extensively discussed Antifa and it mentioned Signal as a recommended means of messaging
10 that protected users because the application automatically deletes messages. (R.T. 1077:7-10;
11 1081:12-17.)

12 Signal is a messaging application where you can send text messages, make phone
13 or video calls, and after a specified time the messages can be set to delete permanently, unable
14 to be recovered by anyone, including law enforcement. (R.T. 341:15-17; 342:14-26; 1081:23-
15 28; 1082:1-10.) The application allows you to create groups which can be named by users
16 included in the threads. (R.T.1081:3-4.) Contacts can identify themselves by a nickname or
17 username that will be seen by every other member within the same group. (R.T. 1081:4-6.)
18 Administrators are the persons who create the group as well as the persons who can authorize
19 other people within the group to be administrators as well. (R.T. 1081:7-11.)

20 In March 2021, a search warrant was served on Defendant Cannon and his cell
21 phone was seized from his pocket. (R.T. 1078:2-19; 1079:4-7.) The phone was not locked and
22 there was no password protection. (R.T. 1079:13-16.) The phone was placed in airplane mode
23 to preserve the state of the content at the time it was seized. (R.T. 1079:26-28; 1080:1-6.) The
24 Signal application was running on the phone. (R.T.1080:10-22.)

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1 The Signal contacts in Cannon's phone included Defendants Lightfoot, White,
2 Mora, Rivera, Ogden, Akridgejacobs, and Yach. (Exhibit 18 "Signal Exhibit".) In the eighteen-
3 member group entitled "SDFASHBASH", Defendant White was an administrator. (R.T. 1121:4-
4 9; Exhibit 18 "Signal Exhibit".) Members of the same Signal group "SDFASHBASH" included
5 Lightfoot, White, Cannon, Rivera, and Mora. (R.T. 1120:13-22; Exhibit 18 "Signal Exhibit".)

6 On January 8, 2021, Talab sent a message to Lightfoot, Mora, Martinez, and Rivera,
7 "Yo on signal it looks like some ppl Are talking about going To San Diego." (R.T. 1179:23-27.)
8 On January 9, Mora sent Lightfoot a message "Where up park" and then a second message that
9 said, "**We're at the spot where they posted on signal, 1001 Missouri.**" (R.T. 404:6-11.) Later,
10 Detective Clark reviewed Lightfoot's social media where he posted a video of Incident Four.
11 (R.T. 1118:6-10.) At the time Lightfoot was watching the Incident Four video on his device,
12 Lightfoot's social media received a Signal chat notification from "SDFASHBASH" that wrote "I
13 can't stop cackling." (R.T. 1118:10-13; 18-23; 1119 7-12.)

14 Planned Demonstrations for January 9, 2021

15 The San Diego Police Department's Criminal Intelligence Unit ("CIU"), which
16 monitors and forecasts events where a police presence may be needed, put out a notification for
17 the Patriot March prior to January 9, 2021. (R.T. 418:18-28; 419:1-5.) CIU received information
18 that persons affiliated with Antifa, traveling from as far as Los Angeles, would be counter-
19 demonstrating at the event. (R.T. 419:12-24.) CIU did not have any knowledge as to the size of
20 the Antifa contingent anticipated to be present in Pacific Beach. (R.T. 420:2-9.)

21 *Captain Matt Novak*

22 Captain Matt Novak had been a peace officer for nearly twenty-eight years at the
23 time he testified before the Grand Jury. (R.T. 409:1-5.) He possesses both personal experience
24 and second-hand knowledge regarding Antifa, from various police interactions with the group in
25 the preceding years, and was familiar with their tactics, how they dressed, and their behavior
26 around law enforcement. (R.T. 439:4-22.) Captain Novak noted Antifa will attend demonstrations
27 with the purpose to disrupt, communicating over radio and bringing improvised weapons like
28 sticks, bats, and bear spray. (R.T. 448:4-15.)

1 ***Defendants Arrive at Pacific Beach – (Overt Acts 10-18)***

2 On January 9, 2021, Defendants arrived in Pacific Beach from Los Angeles and
3 areas of San Diego dressed in black clothing, armed with weapons and protective gear as
4 described below.

5 ***Brian Lightfoot – (Overt Act 1)***

6 Brian Lightfoot wore a black tactical vest with distinct colored patches that said
7 “Essential” and “My mom thinks I’m special.” (R.T. 321:28; 322:1-10; Exhibit 1, Photo 4.)
8 Lightfoot wore a black face mask and carried cans of bear mace. (R.T. 322:10-14; Exhibit 1,
9 Photo 4.) The bear mace brand was “Frontiersman,” a brand ten times stronger than the pepper
10 spray used by police. (R.T. 325:25-28; 326:1-2.)

11 ***Jeremy White – (Overt Act 10)***

12 Jeremy White dressed head to toe in body armor, tactical gear, had a black tactical
13 helmet with a gas mask, black tactical vest with patches, motorcycle style body armor all over,
14 gloves, tactical pants and boots, and a balaclava underneath the gas mask. (R.T.338:16-26;
15 Exhibit 1, Photo 10.) Defendant White had a large canister of bear mace attached to the front of
16 his tactical vest. (Exhibit 1, Photo 10.)

17 ***Jesse Cannon – (Overt Act 12)***

18 Jesse Cannon wore a distinctive gray floppy hat with a net and face covering.
19 (R.T. 262:17-28; Exhibit 1, Photo 2.) In addition to the gray floppy hat, Cannon wore a black
20 sweatshirt, black pants, black gloves, and black tennis shoes with stripes. (R.T. 263:12-14,
21 Exhibit 1, Photo 2.) Cannon had a satchel with a patch that read “I AM ANTI-FASCIST.”
22 (R.T. 265:9-13.) Cannon wore gloves with reinforced knuckles. (R.T. 266:1-3.) Cannon also
23 carried a camera with a lens cap and a yellow dot sticker. (R.T. 266:13-20, Exhibit 1, Photo 2.)

24 ***Luis Mora – (Overt Act 5)***

25 Luis Mora wore black pants, a black sweatshirt, a black face mask, hat, sunglasses,
26 and shoes. (Exhibit 1, Photo 6.) Mora had a helmet with an “eight ball” logo attached to his
27 backpack and a can of Saber pepper spray strapped to his left hand. (R.T. 360:23-26; 361:5-10;
28 Exhibit 1, Photo 6.)

1 ***Martin Talab – (Overt Act 3)***

2 Martin Talab wore in a black hooded sweatshirt, black pants, and he wore both a
3 gray gator style face mask and a black face mask with a canister of “Back Off” dog repellent
4 clipped in his right front pants pocket. (R.T. 353:14-28; 354:1-4; Exhibit 1, Photo 9.)

5 ***Alexander Akridgejacobs- (Overt Act 13)***

6 Alexander Akridgejacobs dressed himself in a black shiny face mask, a black
7 hooded sweatshirt, tan pants, black boots, and carried a black backpack with a red fist on the
8 back. (Exhibit 1, Photo 1.) In the side pocket of the backpack was a 24-ounce unopened
9 Twisted Tea can. (R.T. 303:3-28; 304:1-6; Exhibit 1, Photo 1.)

10 ***Joseph Gaskins – (Overt Act 15)***

11 Joseph Gaskins wore a gas mask with a tinted visor, a black jacket with a yellow
12 emblem, black pants, a skateboard, and a brown and white backpack. (R.T. 317:27-28; 318:103;
13 Exhibit 1, Photo 3.) Gaskins carried a Twisted Tea can. (Exhibit 1, Photo 3.)

14 ***Christian Martinez – (Overt Act 2)***

15 Christian Martinez wore black pants, black shoes, a black sweatshirt with the logo
16 “Nazi Punks Fuck Off!” with a swastika in a cancel sign on the back and a picture of a subject
17 with an upraised arm and a boot smashing down on them in the front. (R.T. 358:12-26; Exhibit
18 1, Photo 5.) Martinez wore a black helmet, a black gator style face mask, and was armed with a
19 canister of pepper spray. (Exhibit 1, Photo 5.)

20 ***Samuel Ogden – (Overt Act 16)***

21 Samuel Ogden wore a black long-sleeved shirt, black pants, gray and black gloves,
22 and a black tactical helmet with a clear plastic face mask. (R.T. 369:15-26, Exhibit 1, Photo 7.)
23 Ogden was carrying a long wooden walking stick. (R.T. 369:27-28, Exhibit 1, Photo 7.)

24 ***Bryan Rivera – (Overt Act 4)***

25 Defendant Rivera wore black pants, a black hoodie, a black skateboarding helmet
26 with an “eight ball” logo, a pair of ski goggles with a tinted lens, a black face mask, a pink hand
27 wrap and a camera in his hand. (R.T. 366:11-25; Exhibit 1, Photo 8.)

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1 ***Erich Yach – (Overt Act 14)***

2 Erich Yach wore a red and black plaid jacket with “CHAOS” on the back, a black
3 tank top, black skinny jeans, black fingerless gloves, a black facemask, glasses, and white tennis
4 shoes with red laces. (R.T. 308:8-17; 309:1-14; Exhibit 1, Photo 11.) On the jacket patch, the
5 word “CHAOS” had the letter “A” circled, an anarchist symbol and ideology that Antifa
6 members subscribe to. (R.T. 309:24-25; 310:8-15; R.T. 242:7-11, Exhibit 14, slide 20.) Yach
7 was armed with a taser and pepper spray. (R.T. 313:5-28; 314:1-6; Exhibit 14, slide 37.)

8 ***Uncharged Co-Conspirator Jonah Bigel – (Overt Act 17)***

9 Jonah Bigel was wearing a black sweatshirt, black pants and boots, distinctive
10 gloves with reinforced knuckles, a black balaclava mask, and was carrying a baseball bat with
11 Twisted Tea logo decoration along the shaft. (R.T. 282:5-20; 1384:7-8.)

12 **Incident One Evidence – (Overt acts 18-30)**

13 ***Counts 2-5 – Tear Gas by Defendant Lightfoot on S.G., H.T., A.F., and***
14 ***Unidentified Victim One;***

15 ***Count 6 – Tear Gas by Defendant Mora on Unidentified Victim One;***

16 ***Count 8 – PC245(a)(4) by Defendants Cannon and Mora on S.G.;***

17 ***Count 9 – PC245(a)(4) by Defendants Cannon and Mora on S.M.;***

18 ***Count 10 – PC245(a)(4) by Defendants Cannon and Mora on E.H.;***

19 ***Count 13 – Tear Gas by Defendant Mora on E.H.***

20 S.G. was seventeen years-old and in high-school on January 9, 2021. (R.T.
21 501:15-28.) S.G., H.T. and A.F. went to the Crystal Pier in PB to participate in a “Patriot
22 March” at about 1:20 p.m. on January 9th. (Exhibit 5-1, Incident 1.) Just after they arrived, they
23 were immediately surrounded and confronted by Defendants and other coconspirators all
24 dressed in “Black Bloc” and armed with pepper spray, bear mace, bats, and sticks. (Exhibit 5-1,
25 Incident 1.)

26 Defendant Lightfoot lead the initial attack while wearing black “tactical” style
27 body armor with a yellow radio attached to the front of his armor, black goggles, and a black
28 balaclava. (Exhibit 5-1, Incident 1.) He sprayed the group of juveniles and Unidentified Victim

1 One with bear mace causing them to and run from black clad mob. (Exhibit 5-1, Incident 1.)
2 Defendant Mora and Defendant Martinez deployed tear gas weapons shortly thereafter towards
3 the victims. (Exhibit 5-1, Incident 1.)

4 The victims scattered and S.G. attempted to run away from the attackers north up
5 the boardwalk. (Exhibit 5-1, Incident 1.) S.G. was cut off by Defendant Ogden and several other
6 members of the group before he could escape. (Exhibit 5-1, Incident 1.) They caught S.G.,
7 allowing the other protestors chasing S.G. north to catch up to S.G. and assault him. (Exhibit 5-
8 1, Incident 1.) Defendant Ogden was dressed all in black, swinging a large wooden walking
9 stick. (Exhibit 5-1, Incident 1.) S.G. was tackled to the ground where he was kicked and hit all
10 over his body. (Exhibit 5-1, Incident 1; Exhibit 1, Slides 12-17.) His wrist was struck by a pole,
11 and he thought he was going to be killed. (Exhibit 5-1, Incident 1.)

12 Two bystanders (E.H. and S.M./unidentified victim two in the indictment) saw
13 what was happening and came to S.G.'s rescue; attempting to help him to escape the group.
14 (Exhibit 5-1, Incident 1.) However, after helping him escape, S.M. and E.H. were themselves
15 attacked by Defendants Cannon, Mora, Martinez, Akridgejacobs, Rivera, Ogden, Yach, and half
16 a dozen other unidentified members of the group affiliated with Antifa. (Exhibit 5-1, Incident 1.)
17 As Mora ran to join the attack, he carried a large white can of bear mace in his right hand.
18 (Exhibit 5-1-Incident 1.)

19 By the time these suspects joined the attack, S.G. fled, and the attack was focused
20 on E.H. and S.M. (Exhibit 5-1-Incident 1.) Mora pointed the bear mace at the victims and
21 deployed an orange cloud of bear mace covering their faces necks and shoulders. (Exhibit 5-1,
22 Incident 1.) E.H. put his left arm and shoulder up defensively and appeared to be squeezing his
23 left eye shut as orange liquid spread over the left side of his face. (Exhibit 5-1, Incident 1.) E.H.
24 by was hit by hard objects of an unknown type by subjects dressed in black. (Exhibit 5-1,
25 Incident 1.) E.H. testified that he was sprayed with bear mace and that his skin felt like it was on
26 fire, and he was blinded by the spray. (R.T. 600:25-28.) S.M. was also doused in bear mace and
27 exchanged blows with several members of the Antifa affiliated group attempting to get to his
28 friend E.H. (Exhibit 5-1-Incident 1.)

1 S.M. fell to the ground and Defendant Cannon began fighting with him. (Exhibit
2 5-1-Incident 1.) Defendant Yach began kicking S.M. as he was on the ground (Exhibit 5-1,
3 Incident 1.) The Antifa group surrounded the two victims, blocking any potential means of
4 escape. (Exhibit 5-1, Incident 1.) As the attack continued, Defendant Yach sprayed both E.H.
5 and S.M. with pepper spray. (Exhibit 5-1, Incident 1.) Akridgejacobs carried a black jacket in
6 his hand that appeared to conceal something stiff underneath it. (Exhibit 5-1, Incident 1.) As
7 E.H. and S.M. fled, Akridgejacobs lashed out with the object, striking S.M. in the upper right
8 shoulder. (Exhibit 5-1-Incident 1; Exhibit 1, Slides 18-20.) Defendant Rivera, wearing all black,
9 a pink hand wrap on his right hand, and wearing a helmet with an "eight ball" sticker on the
10 back of it, ran to join the group attack, getting right in the front. (Exhibit 5-1, Incident 1.)
11 Defendant Rivera Struck E.H. while E.H. was on his hands and knees driving his fist into the
12 victim's back. (Exhibit 5-1, Incident 1.) The group of attackers continued to use bear mace,
13 pepper spray, kicks, and punches to attack S.G.'s rescuers until they were finally able to stumble
14 away down the boardwalk themselves. (Exhibit 5-1-Incident 1.)

15 **Incident Two Evidence – (Overt Acts 31-32)**

16 The Antifa group, to include Defendant Mora, encountered unidentified victim
17 three and his dog earlier in the day and had verbally harassed him as he was walking his dog.
18 (Exhibit 5-2, Incident 2.) His dog had a vest indicating he was a service dog, and the dog had a
19 very short leash. (Exhibit 5-2, Incident 2.) This incident did not result in any violence. (Exhibit
20 5-2, Incident 2.)

21 Sometime before 1:37 p.m., when unidentified victim three was walking his dog
22 northbound on the boardwalk, he encountered Defendant White. (Exhibit 20-Timeline of
23 January 9; Exhibit 5-2, Incident 2.) Defendant White wore body armor over his entire body, and
24 had a helmet with a gas mask, medic patches on his shoulders, and had a large red can of bear
25 mace in his front armored vest pocket. (Exhibit 5-2, Incident 2.) The dog appeared to pull
26 unidentified victim three forward as they approached the group. (Exhibit 5-2, Incident 2.) The
27 dog was approximately four or five feet away from Defendant White, and unidentified victim
28 three had his dog on an approximately one-foot leash and re-gripped the leash a few inches away

1 from the harness. (Exhibit 5-2, Incident 2.) Unidentified victim three pulled hard on the leash to
2 slow the dog down, preventing him from rushing forward. Defendant White stood, looking at
3 the dog and owner, and pulled out his cannister of bear mace, spraying it at the dog and
4 unidentified victim three. (Exhibit 5-2, Incident 2.) As the large orange cloud hit the dog and
5 unidentified victim three, they both recoiled backwards. (Exhibit 5-2, Incident 2.) White slowly
6 took a few steps back, blending into the rest of the Antifa group who were standing by holding
7 black and red flags. (Exhibit 5-2, Incident 2.)

8 The Grand Jury did not indict on any criminal counts related to this incident.
9 However, the incident represents two charged overt acts of Count 1.

10 **Incident Three Evidence –(Overt Acts 33-42)**

11 The third attack occurred later, at approximately 2:00pm, after the Antifa group
12 had been walking up and down the boardwalk making chants consistent with their stated
13 ideology such as “A-C-A-B,” and “All Cops are Bastards.” (R.T. 1085:22-26; Exhibit 5-3,
14 Incident 3.) The Antifa group headed northbound just south of Crystal Pier. (Exhibit 5-3,
15 Incident 3.) J.C. filmed the group, and Defendant Talab began to challenge him, asking him,
16 “Are you like us?” (Exhibit 5-3- Incident 3.) Talab wore black pants, a black North Face jacket
17 with a hood, black and white Under Armor tennis shoes, and had his hair in a “bun” style on top
18 of his head. (Exhibit 5-3- Incident 3.)

19 After J.C. replied he was not part of their group and that he was a local
20 community member, Defendant Talab slapped the phone from J.C.’s hand. (Exhibit 5-3-
21 Incident 3.) J.C. retrieved his phone and stood on a bench as the group surrounded him. (Exhibit
22 5-3, Incident 3.) He continued filming the group. (Exhibit 5-3, Incident 3.) Defendant Talab
23 confronted J.C. with a tear gas canister. (Exhibit 5-3, Incident 3.) Defendant White began
24 putting his hands up in front of the phone to prevent J.C. from filming the Antifa group. (Exhibit
25 5-3, Incident 3.) An unidentified group member put a cardboard sign in J.C.’s face. (Exhibit 5-3,
26 Incident 3.)

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1 As the confrontation escalated, another unidentified member of the group slapped
2 the phone out of J.C.'s hand again. (Exhibit 5-3, Incident 3.) J.C. stepped down to retrieve his
3 phone. When he did so, Defendant Mora tried to punch J.C. in the face. J.C. pushed him back,
4 and they both lost their balance, falling backwards. (Exhibit 5-3, Incident 3.) Another unknown
5 member stepped in, and pepper sprayed J.C. (Exhibit 5-3, Incident 3.) The entire group,
6 including Defendant Yach surrounded J.C., making it difficult for him to flee or move freely.
7 (Exhibit 5-3, Incident 3.) J.C. was able to back away to safety and the Antifa group passed him
8 by. (Exhibit 5-3- Incident 3.)

9 **Incident Four Evidence – (Overt Acts 43- 66)**

10 **Counts 14 – 17 – Tear Gas by Defendant Lightfoot on M.A., T.G., Unidentified**
11 **Victims Four and Five;**

12 **Count 18 – Tear Gas by Defendant Mora on M.A.;**

13 **Count 19 – PC 245(a)(4) by Defendants Cannon, Lightfoot, Mora, and Talab on**
14 **M.A.; Defendant Cannon: PC1192.7(c)(23) (folding chair) and PC1192.7(c)(23) (Twisted Tea**
15 **can);**

16 **Count 20 – PC245(a)(4) by Defendants Cannon, Lightfoot and Talab on T.G.;**

17 **Count 21 – PC245(a)(4) by Defendants Cannon and Lightfoot on Unidentified**
18 **Victim Four.**

19 The fourth attack occurred as the Antifa demonstrators returned south on the
20 boardwalk at approximately 2:06 p.m. (Exhibit 20-January 9 Timeline.) M. A., her companion
21 T. G., and two other unidentified men, unidentified victims 4 and 5, gathered in a grassy area
22 near the boardwalk. (Exhibit 5, Incident 4.) The victims were wearing American flag-patterned
23 clothing. (R.T. 862:4-21.) The four victims stood and looked at the black-clad demonstrators
24 who began to surround them. (R.T. 863:5-10; 866:6-7.)

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1 T.G. wore a grey t-shirt, blue jeans, a black long-sleeved t-shirt underneath the
2 grey shirt, a black baseball cap with white writing, and an American flag-patterned face mask
3 (R.T. 860:13-14.) The unidentified victim four was a heavysset white male wearing black pants, a
4 blue plaid short-sleeved shirt, an American flag gaiter-style mask, and a black baseball cap.
5 (R.T. 860:24-26.) M.A. wore a green T-shirt, black three-quarter length pants, a dark-colored
6 side-satchel, an American flag patterned face mask, and a black hat with the words “Fuck
7 Biden” on it. (R.T. 859:18-20.) Unidentified victim five was a heavysset white male wearing a
8 white T-shirt over a black long-sleeved shirt, a pair of blue jeans, an American flag-patterned
9 face mask, and a black baseball cap. (R.T. 860:24-26.)

10 The Antifa group approached M.A, T.G., and their two companions and as they
11 did, Defendant Cannon started taking photographs and shouting a name while pointing at T.G.
12 (R.T. 868:9-21; Exhibit 3, Incident 4.) Defendant Cannon yelled the phrase “Proud Boy Killa”
13 while pointing at the victims (R.T. 267:9-11; 277: 8-18; Exhibit 3, Incident 4.) Shortly after,
14 Defendant Lightfoot reached into the front pockets of his armor, took out a white spray canister,
15 and sprayed T.G. and M.A. (R.T. 866:8-10; 871:2-28; 910:19.) The victims immediately ducked
16 and tried to shield their faces. (R.T. 871:2-28.) The cloud of spray appeared orange as Defendant
17 Lightfoot sprayed an approximately 1-2 second burst, then sprayed another 1-2 second burst as
18 the group turned and fled. (Exhibit 5-4, Incident 4.) An unidentified coconspirator sprayed T.G.
19 in the face. (Exhibit 3, Incident 4.) M.A. appeared to be in distress after being sprayed, holding
20 her hands to her face and falling multiple times during the attack. (Exhibit 5-4, Incident 4.)
21 Defendant Mora forced his hand into M. A.’s Face and filled her nose and mouth with pepper
22 spray. (R.T. 873:16-28; 874:1-14.)

23 The Antifa group, including Defendants Mora, Akridgejacobs, Lightfoot, Cannon,
24 Bigel, and White, surged forward and continued to attack the four fleeing victims. (Exhibit 5-4,
25 Incident 4.) The attackers were armed with a wooden walking stick, a flagpole with a black and
26 red flag on it, pepper spray, full cans of Twisted Tea, a glass bottle, and a baseball bat. (Exhibit
27 5-4, Incident 4.) The victims did not have any weapons and were completely unarmed. (R.T.
28 864:12-16.)

1 As the group in American flag attire fled southbound on the boardwalk, Defendant
2 Cannon picked up a wooden folding chair with his right gloved hand, swung the chair behind his
3 hip and buttocks and then flung the chair it into the back of M.A. (Exhibit 3-4, incident 4.) The
4 chair struck M.A. in the upper back and then bounced several feet away. (Exhibit 3-4, incident
5 4.) She turned around and looked down. (R.T. 872:12-22.) M.A. didn't realize she had been
6 struck by a chair at first, because there had been such a crowd behind her, she thought maybe
7 one of them had hit her. (R.T. 872:12-20; Exhibit 1, slide 23.) Defendant Lightfoot and an
8 unidentified suspect dressed in black carrying a long, wooden walking stick approached her.
9 (Exhibit 5-4, Incident 4.) M.A. rushed them and tried to push them back and away from her.
10 (R.T. 875:3-16.) As she did so, Lightfoot and the group pushed her back, and M.A. fell to the
11 ground and rolled onto her stomach. (R.T. 875:3-16.) Once M.A. was on the ground, the male
12 with the flagpole used the pole to strike her over the back of her head, which she had tucked into
13 her hands for protection as she was huddled on the ground. (Exhibit 5-4, Incident 4.) Defendant
14 Lightfoot attempted to kick M.A. while she was on the ground, defenseless. (Exhibit 5-4,
15 Incident 4.)

16 M.A. managed to get herself up and the group of victims continued to try to leave
17 the boardwalk area. (R.T. 915:2-27.) M.A. fell again and was helped up by T.G. (R.T. 915:20-
18 27.) Defendant Lightfoot watched M.A. being attacked. (Exhibit 5-4, Incident 4.) Lightfoot
19 jumped forward to help push M.A. to the ground. (Exhibit 5-4, Incident 4.) During these attacks,
20 Defendants Lightfoot, Mora, Akridgejacobs, Talab, and White walked forward near the front of
21 the group, continuing along with the other Antifa members to create a wall of people to push the
22 victims south on the boardwalk and away from the Crystal Pier. (Exhibit 5-4, Incident 4.)

23 During this continued attack, Defendant Lightfoot ran after and jumped into the air
24 to strike T.G. as he fled. (Exhibit 5-4, Incident 4.) He pushed T.G. with enough force that T.G.
25 stumbled, and the yellow radio attached to the front of Defendant Lightfoot's armor came loose
26 and fell onto the ground. (R.T. 913:11-12.) Unidentified coconspirators threw a Twisted Tea
27 can and a glass beer bottle at T.G. and unidentified victim 4. (Exhibit 5-4, Incident 4.)

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1 Uncharged coconspirator Jonah Bigel struck M.A.'s boyfriend, T.G., with a
2 Twisted Tea decorated baseball bat. (R.T. 916:5-11, Exhibit 3 Incident 4.) He strode forward,
3 then looked over to his right where S.M. and M.A. were walking. (Exhibit 5-4, Incident 4.) As
4 T.G. helped M.A. to walk away with his arm around her, uncharged coconspirator Bigel stepped
5 forward and swung his bat at T.G. (R.T. 916:5-11; Exhibit 5-4, Incident 4.) Uncharged
6 coconspirator Bigel struck the male on the backside of his legs as he was retreating, causing
7 T.G. to take a large step forward and look behind him. (R.T. 916:5-11; Exhibit 5-4, Incident 4.)

8 As the victims tried to flee the area, Defendant Cannon approached them again
9 and picked up a brown glass bottle laying on the grass. (Exhibit 5-4, Incident 4.) Cannon picked
10 up a brown beer bottle in his gloved right hand and then in an overhand motion threw the bottle
11 with force at the back of unidentified victim four. (Exhibit 3-4, Incident 4.) The bottle bounced
12 several times before it broke. (Exhibit 3, incident 4.)

13 Alexander Akridge Jacobs threw his 24 fluid ounce can of Twisted Tea at Victim
14 4. (Exhibit 3-4, Incident 4.) The Twisted Tea can landed in the street. (Exhibit 3-4, Incident 4.)
15 Cannon scooped up the Twisted Tea can with his right gloved hand and in an overhand motion,
16 threw the Twisted Tea can at M.A.'s back. The Twisted Tea can struck M.A. and bounced into
17 the street.

18 Defendant Lightfoot continued to attack the group of victims by pushing and
19 kicking them. (Exhibit 5-4, Incident 4.) He punched at unidentified victim 4's upper body,
20 swinging his right fist in what appeared to be a "haymaker" style of punch. (Exhibit 5-4,
21 Incident 4.) Victim 4 ducked, turned his shoulder in, and blocked the punch with his left arm.
22 (Exhibit 3, Incident 4.) Defendant Lightfoot immediately punched unidentified victim 4 in the
23 face with his left fist. (Exhibit 5-4, Incident 4.) Unidentified victim 4 pulled back, striking out
24 with his right fist, which missed Defendant Lightfoot. (Exhibit 5-4, Incident 4.) Unidentified
25 victim 4 turned around and tried to flee again. (Exhibit 3, Incident 4.) Defendant Lightfoot ran
26 up to him and kicked unidentified victim 4 in the buttocks. (Exhibit 3, Incident 4.) At the same
27 time, Lightfoot grabbed onto unidentified victim 4's left arm and punched him in the back of the
28 head, knocking his head forward. (Exhibit 3, Incident 4.) Victim 4 pulled away, trying to flee.

1 (Exhibit 5-4, Incident 4.) Lightfoot kept running, leapt into the air, and kicked unidentified
2 victim 4 in the stomach while pushing onto unidentified victim 4's back, causing him to bend
3 over and stumble forward and start running away. (Exhibit 5-4, Incident 4.) Victim 4 kept
4 running away, and Lightfoot ran back to the Antifa group. (Exhibit 3, Incident 4.)

5 The group of four victims continued to try to leave the area as the Antifa group
6 threw bottles at them. (Exhibit 5-4, Incident 4.) As the group of victims fled eastbound on 700
7 Hornblend, unidentified victim 5 walked away, but was still close to the front line of Antifa, and
8 Defendant Lightfoot started chasing him. (Exhibit 5-4, Incident 4.) Defendant Lightfoot jumped
9 into the air and performed a front kick, striking unidentified victim 5 on the side as he turned to
10 face Defendant Lightfoot. (Exhibit 5-4, Incident 4.) Unidentified victim 5 lost his balance,
11 stumbled back, and dropped items he was holding in his hands. (Exhibit 5-4, Incident 4.)
12 Unidentified victim 5 paused long enough to retrieve what appeared to be his cell phone but did
13 not retrieve the other item he had dropped and instead fled to the corner of Hornblend Avenue
14 and Mission Boulevard. (Exhibit 5-4, Incident 4.) Orange liquid covered T.G. and M.A.'s faces.
15 Exhibit 5-4, Incident 4.) M.A. sobbed into T.G.'s chest. (Exhibit 3, Incident 4.)

16 M.A. had several large bruises on her back and shoulders, and her boyfriend
17 (T.G.) had a large bruise on the back of his right thigh. (R.T. 889:1-4; 886:14-28; 887:1-28;
18 888:1-28.) Detective Clark testified that the Twisted Tea can Akridgejacobs had in his pocket
19 was 24 fluid ounces. (R.T.1784:2-8.) Detective Clark testified that as a police officer, she has
20 seen objects about the same size and weight used to inflict injuries on victims. (R.T. 1784:9-
21 13.) Detective Clark's opinion was that the Twisted Tea can could be used as a deadly weapon
22 because of its weight and because it was made of metal with a sharp edge. (R.T. 1784:14-18.)
23 Detective Clark testified that depending on the way the can was used, if it was thrown and if it
24 hit the right part of the body could cause permanent brain damage or potentially kill someone.
25 (R.T. 1784: 21-24.) The 24 fluid ounce Twisted Tea can was then passed around to the Grand
26 Jurors so they could feel the weight themselves. (R.T. 1785:3-5.)

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1 Incident Five Evidence – (Overt Acts 67-76)

2 Count 22 – PC245(a)(4) by Defendants Cannon, White, Lightfoot, Talab and
3 Yach on R.L.;

4 Count 23 – PC244.5(b) by Defendant Yach on R.L.;

5 Count 24 – PC245(a)(1) by Defendants Ogden and Lightfoot on J.C. with the
6 allegation of PC1192.7(c)(23) for Defendant Lightfoot (a walking stick)

7 The fifth assault occurred at 2:46 p.m., once the Antifa and Pro-Trump groups
8 gathered along 4500 Mission Boulevard. (R.T. 449:4-28.) Law enforcement was eventually able
9 to get the two sides separated with a buffer of officers, positioned Mission Boulevard and
10 Hornblend Street, with one police line facing each side. (R.T. 449:17-23; 450:6-8.) The Antifa
11 side, which had been moving about a three-to-four block area attacking victims, was isolated at
12 one side of the police line. (R.T. 453:15-20.) This buffer was intentionally created to keep the
13 two sides of the protest separated. (R.T. 453:2-4.)

14 R.L. filmed the Antifa group from further north of the police line from the
15 sidewalk, not in the street. (Exhibit 5-5, Incident 5.) He wore an American flag patterned
16 gaiter/face mask. (Exhibit 5-5, Incident 5.) He did not appear to be taking an active part in the
17 demonstrations. (Exhibit 5-5, Incident 5.) Defendant White pointed to his eyes and then pointed
18 to R.L. while looking at Yach and Cannon. (Exhibit 5-5, Incident 5.) The Antifa group
19 immediately swarmed R.L. (Exhibit 5-5, Incident 5.)

20 Defendants Cannon and Yach emerged from the crowd of Antifa group members
21 and walked directly towards R.L. (Exhibit 5-5, Incident 5.) They approached R.L. and
22 immediately attacked him. (Exhibit 5-5, Incident 5.) Cannon shoved R.L. off his bicycle.
23 (Exhibit 5-5, Incident 5.) Immediately, a crowd of other Antifa members joined and attacked
24 R.L. (Exhibit 5-5, Incident 5.) In R.L.'s own video of his attack, Defendant Yach's trousers
25 with the distinctive patches was visible, and Yach's hand held a pink taser. (Exhibit 5-5,
26 Incident 5.) The taser "clicking" in the background was audible in the videos. (Exhibit 5-5,
27 Incident 5.) R.L. testified that the members of the group beat him, kicked him, and tried to tase
28 him. (R.T. 965:5-9; Exhibit 5-5, Incident 5.)

1 R.L. fell to the ground as he was attacked by a crowd all in black. (Exhibit 5-5,
2 Incident 5.) J.C., the victim from the second incident, ran up behind R.L., helped him to stand,
3 and pushed some of the attackers away from R.L. (Exhibit 5-5, Incident 5.) The main group of
4 Antifa attackers were armed with sticks, pepper spray, a baseball bat, skateboards, and cans of
5 Twisted Tea. (Exhibit 5-5, Incident 5.) Detective Clark noted that Twisted Tea cans were used
6 as weapons multiple times during the demonstrations by the Antifa group. (R.T. 1379:17-24.)
7 Twisted Tea is a reference to a viral YouTube video displaying a man using a can of Twisted
8 Tea to hit another man in the face after that man had uttered a racial slur (see below). (R.T.
9 238:24-239:17.)

10 R.L. was hit and kicked all over his body, and said he tried to protect his head as
11 he was swarmed. (R.T. 965:5-9; Exhibit 5-5, Incident 5.) J.C. stayed with R.L. (Exhibit 5-5,
12 Incident 5.) Defendant Yach held out an object in his hands that appeared to be a small canister
13 of pepper spray, and pointed it towards R.L. and J.C. (Exhibit 5-5, Incident 5.) F.A., a juvenile
14 suspect wearing a black and white plaid shirt, jeans, and a black ski mask slammed his
15 skateboard into R.L.'s bicycle repeatedly, and then swung it at J.C.'s head. (Exhibit 5-5,
16 Incident 5.) J.C. ducked and the skateboard missed his head. (Exhibit 5, Incident 5.) Defendant
17 White stood at the curb and watched R.L.'s attack. (Exhibit 3, Incident 5.)

18 The crowd of over ten subjects, consisting of at least three males carrying
19 skateboards and one male with a large pole, surged toward R.L. and J.C. (Exhibit 5-5, Incident
20 5.) Defendant Talab sprayed R.L. with pepper spray. (Exhibit 5-5, Incident 5.) R.L. stepped
21 back and pulled a knife out of the sheath he wore openly on his belt and held it down low for
22 defense. (Exhibit 5-5, Incident 5.) This attack had been going on for over a minute before R.L.
23 ever pulls out the knife. (Exhibit 5-5, Incident 5.) The crowd stepped back. As R.L. tried to
24 recover his bicycle, the crowd surged towards him again, preventing him from obtaining his
25 bicycle. (Exhibit 5-5, Incident 5.) The crowd then gained momentum and chased R.L. north on
26 the sidewalk for about a block, until they reached Garnet Avenue, ensuring R.L. left the area.
27 (Exhibit 5-5, Incident 5.) The crowd included Defendants Yach, Cannon, Akridgejacobs, White,
28 Lightfoot, Martinez, and Talab. (Exhibit 5-5, Incident 5.) As the group ran north, Defendant

1 Lightfoot paused to seize a tall, wooden walking stick from Ogden, then kept running towards
2 J.C. and R.L. (Exhibit 5-5, Incident 5.) He swung the stick down towards J.C.'s head. J.C. threw
3 up his left hand and appeared to try to duck and block the blow before stumbling back,
4 continuing to flee. (Exhibit 5-5, Incident 5.) Defendant Lightfoot ran back into the black-clad
5 crowd. (Exhibit 5, Incident 5.) As J.C. and R.L. ran up the street and turn the corner, Defendant
6 White followed after the two victims. (Exhibit 3, Incident 5.)

7 Other members of the mob yelled to others in the Antifa group to take the bicycle
8 saying, "Take his shit, take it!" (R.T. 968:22-28.) Defendant Talab took hold of R.L.'s bicycle
9 and dragged it away. (Exhibit 5-5, Incident 5.) R.L. tried to retrieve his bicycle but could not due
10 to being pepper sprayed. (R.T. 968:10-16.) Detective Clark reviewed a search warrant return of
11 Defendant Lightfoot's Instagram account and located a message on a chat group from Defendant
12 Talab to Defendants Lightfoot, Mora, Martinez, and others, where Defendant Talab boasted
13 about taking "that chud's bike" and slashing its tires. (R.T. 1632:26-28.)

14 R.L.'s medical report stated he sustained a fracture to his elbow following the
15 attack. (Exhibit 20, R.L. Medical Records Redacted.) J.C. sustained a large, dark bruise to his
16 upper left back, which is visible in a photograph J.C. took of his injuries. (Exhibit 1, Slides 30-
17 32.)

18 **Evidence for Incident Six - (Overt Act 77)**

19 During the unlawful assembly, Jonah Bigel dressed in his matching Black Bloc
20 attire walked up to the window front of a Sketchers shoe store with his Twisted Tea baseball bat.
21 (Exhibit 10, Incident 6.) He moved a fellow protestor out of the way, looked left then right and
22 smashed the window with his baseball bat before disappearing back into the crowd. (Exhibit 10,
23 Incident 6.)

24 **Evidence for Incident Seven – (Overt Acts 78-81)**

25 Throughout the unlawful assembly officers within the police line were pelted with
26 eggs rocks, glass beer bottles, and pepper spray. (R.T. 457:19-22; Exhibit 8, Clip 1 and Clip 2.)
27 Several of Defendants and other unidentified conspirators can be seen and were identified
28 making these attacks in the ABLE helicopter footage. (Exhibit 8, Clip 1 and Clip 2.)

1 Defendants Lightfoot Gaskins, and unidentified coconspirators threw objects at police officers.
2 (Exhibit 8, Clips 1 and 2; Exhibit 9; Exhibit 10, Clip 1; Exhibit 19, Incident 10, Clip 1; Exhibit
3 23, ABLE Unlawful Assembly Clip.)

4 Captain Novak declared an unlawful assembly at 2:34 pm because the Antifa
5 protestors became increasingly hostile towards the police. (R.T. 457:19-22.) Announcements
6 were repeatedly made by police to leave the area, and anyone who remained would be subject to
7 arrest. (R.T. 462-463:12-27.) Defendants and other unidentified conspirators refused to
8 disperse. (Exhibit 8, Clips 1 and 2; Exhibit 9; Exhibit 10, Clip 1; Exhibit 19, Incident 10, Clip
9 1; Exhibit 23, ABLE Unlawful Assembly Clip.)

10 Officer Andrew Duarte declared an unlawful assembly from the ABLE helicopter
11 at 3:12:12 pm. (Exhibit 20-January 9 Timeline.) At 3:14:23, ground units confirmed the
12 unlawful assembly order from ABLE could be heard on the ground. (Exhibit 20-January 9
13 Timeline.)

14 **Evidence Of Incident Eight (Overt Acts 82-85)**

15 **Count 25 – Tear Gas by Defendant Lightfoot on N.K.**

16 The sixth assault occurred between 2:46 p.m. and 3:30 p.m. (Exhibit 6-1, Incident
17 8.) Victim N.K. shouted at the group of Antifa protestors while standing north of their main
18 group. (Exhibit 6-1, Incident 8.) The group yelled at him to “get out,” and Defendant Lightfoot
19 approached him and sprayed him in the face with bear mace. (Exhibit 6-1, Incident 8.) N.K.
20 immediately recoiled, squinting. (Exhibit 6-1, Incident 8.) A group of unidentified coconspirators
21 dressed in Black Bloc opened an umbrella to cut off N.K.’s escape and to protect themselves from
22 the spray before Lightfoot attacked. (Exhibit 6-1, Incident 8.) The Antifa group chased N.K. south
23 along 4500 Mission Boulevard until he made it through the police line. (Exhibit 6-1, Incident 8.)
24 F.A. and defendants Akridgejacobs, Lightfoot, and Martinez were part of the crowd that chased
25 N.K. through the police line. (Exhibit 6-1, Incident 8.)

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1 Evidence of Incident 9 - (Overt Acts 86-93)

2 Count 26 – *PC245(a)(4) by Defendants Lightfoot, Talab, and Martinez on*
3 *unidentified victim six;*

4 Count 27 – *PC245(a)(4) by Defendants Talab, Gaskins, and Martinez on*
5 *unidentified victim seven.*

6 The seventh attack occurred around the corner from the main protests, on 800
7 Garnet Avenue at approximately 3:50 p.m. (Exhibit 6-2, Incident 9.) Just after police began to
8 disperse the unlawful assembly by deploying pepper balls, unidentified victim six was being
9 assaulted by the group wearing Black Bloc affiliated with Antifa including by Defendants
10 Lightfoot, Talab, and Martinez. (Exhibit 6-2, Incident 9.) Another juvenile wearing jeans and a
11 black T-shirt, unidentified victim seven, approached the group on his skateboard and helped
12 rescue the victim from the crowd. (Exhibit 6-2, Incident 9.) In response, the attacking group
13 chased and assaulted unidentified victim seven. (Exhibit 6-2, Incident 9.) One of the main
14 suspects who is unknown was dressed in red and black. (Exhibit 6-2, Incident 9.) The An
15 unknown suspect dressed in red and black punched unidentified victim seven repeatedly in the
16 stomach while holding on to the back of his shirt to keep him in place. (Exhibit 6-2, Incident 9.)

17 Unidentified victim 7 was thrown to the ground into the middle of a group of
18 parked electronic scooters by the arriving members of the Antifa group. (Exhibit 6-2, Incident
19 9.) He was kicked, punched, and beaten until he curled up on the ground. (Exhibit 6-2, Incident
20 9.) Defendant Gaskins joined the group. (Exhibit 6-2, Incident 9.) As unidentified victim seven
21 was curled up on the ground, Defendant Gaskins drove the skateboard's point towards his head
22 with both hands. (Exhibit 6-2, Incident 9.) As the other group members kicked and punched
23 unidentified victim seven, Defendant Martinez threw a full can of what appeared to be Twisted
24 Tea at unidentified victim seven's head. (Exhibit 6-2, Incident 9.) The can appeared to hit the
25 curb and exploded in front of the camera. (Exhibit 6-2, Incident 9.)

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1 **Evidence for Incident 10 – (Overt Acts 94-100)**

2 **Count 28 – PC405(a) by Defendant Ogden.**

3 ABLE footage showed Defendant White deploy bear mace at two people riding
4 bikes past him. (R.T. 1375:23-28; 1376:1-2.)

5 Despite the call of an unlawful assembly and giving the demonstrators an
6 opportunity to leave, persons on the Antifa side of the demonstration refused to disperse. (R.T.
7 446:3-28.) Officers attempted to make arrests but were prevented from doing so by Antifa
8 demonstrators who would pull one another away from law enforcement, preventing their arrest.
9 (R.T. 467:11-28; 468:1-4.) An unidentified coconspirator sprayed police officers with a tear gas
10 weapon. (Exhibit 6-3, Incident 10.) Following unsuccessful attempts to make arrests in
11 response to the unlawful assembly declaration, law enforcement deployed pepper balls to
12 disperse the crowd. (R.T. 468:5-24.)

13 Due to this refusal, SDPD Officer Bainbridge moved in to attempt to make an
14 arrest. (Exhibit 6-3, Incident 10.) Officer Bainbridge attempted to pull a person dressed in Black
15 Bloc into police custody. (Exhibit 6-3, Incident 10.) Other members of the Black Bloc surged to
16 pull the person back and was able to prevent Officer Bainbridge from effectuating an arrest.
17 (Exhibit 6-3, Incident 10.) Defendant Ogden used his walking stick to push Officer Bainbridge
18 to prevent the arrest. (Exhibit 6-3, Incident 10.) That person was pulled to the rear of the Antifa
19 line and was immediately shrouded from view by multiple members of Antifa using their
20 bodies, flags and signs. (Exhibit 6-3, Incident 10.) Defendants Yach and Cannon, and uncharged
21 coconspirator Jonah Bigel all helped form this human shield. (Exhibit 6-3, Incident 10.) A
22 change of clothes was brought to the potential arrestee and ABLE captured this person changing
23 clothes and disappearing into the crowd. (Exhibit 6-3, Incident 10.) SDPD was never able to
24 identify this person or to make an arrest due to these actions. (Exhibit 6-3, Incident 10.)

25 **Evidence for Incident 11 – (Overt Acts 101-105)**

26 The eighth attack occurred north of the general area of the protests when a
27 photographer identified as C.B. was taking pictures of a group dressed in black as they were
28 standing along 4700 Mission Boulevard. (Exhibit 1, Slide 44.) C.B. noticed a group in black

1 surrounding an unknown subject and yelled out that the group was about to attack the subject.
2 (Exhibit 6-4, Incident 11.) C.B. kept moving northbound, colorfully narrating as he continued
3 filming. (Exhibit 6-4, Incident 11.)

4 Being photographed, filmed, and cursed out appeared to cause the group to focus
5 on C.B. (Exhibit 6-4, Incident 11.) The group yelled at C.B., challenging him, and he yelled
6 back at them. (Exhibit 6-4, Incident 11.) The group consisted of Defendants Talab, Martinez,
7 Rivera, and Mora. Defendant Talab left the group on the sidewalk and approached C.B. in the
8 middle of the street. (Exhibit 6-4-Incident 11.) Defendant Talab said, "What's up tubby?" before
9 slapping C.B. (Exhibit 6-4, Incident 11.) C.B. charged him, and Talab's group ran out into the
10 middle of the street to help attack C.B. (Exhibit 1, Slides 45-57; Exhibit 6-4, Incident 11.)
11 During this attack, a Prius was driving northbound along Mission. (Exhibit 1, Slides 45-57;
12 Exhibit 6-4, Incident 11.) C.B. got into a physical confrontation with Martin Talab, and as the
13 group joined Talab, the group pushed C.B. up against the Prius. (Exhibit 1, Slides 45-57; Exhibit
14 6-4, Incident 11.) The vehicle stopped while the group attacked C.B. (Exhibit 1, Slides 45-57;
15 Exhibit 6-4, Incident 11.) Defendant Martinez sprayed C.B. with pepper spray as Defendants
16 Rivera, Talab, and Mora surrounded C.B. (Exhibit 1, Slides 50-53.) Defendant Rivera kned
17 C.B. in the abdomen and Defendant Mora punched C.B. in the face. (Exhibit 1, Slides 52;
18 Exhibit 6-4, Incident 11.) The group chased C.B. out of the street, then returned to their position
19 on the sidewalk and fist-bumped the other protestors who had been observing the altercation.
20 (Exhibit 1, Slides 59-62; Exhibit 6-4, Incident 11.)

21 These events with victim C.B. were photographed and were later featured on the
22 front page of the Reader Magazine. (R.T. 1376:11-14.) Through social media returns where
23 participants identified themselves in the Reader picture, law enforcement was able to positively
24 identify several of the defendants. (R.T. 331:3-11.)

25 Eventually, the Antifa crowd dispersed, at about 3:45 p.m. to 4:00 p.m.. (R.T.
26 470:21-28; 471:1-9.)

27

28

1 **Investigation by Detective Emily Clark**

2 Numerous crime cases were received by the police department. (R.T. 249:20-24.)
3 Detective Clark was assigned to the SDPD Northern Division and appointed to investigate the riot
4 which occurred in Pacific Beach on January 9, 2021. (R.T. 249:6-21.) At the time of her Grand
5 Jury testimony, Detective Clark had been a peace officer for about six years. (R.T. 249:2-5.)
6 During her investigation of the case, she watched hours of video footage, reviewed paper crime
7 cases, and studied numerous photographs to organize a timeline the different incidents and attacks
8 that occurred. (R.T. 250:1-9.)

9 As part of her involvement in the investigation of the events of January 9, 2021,
10 Detective Clark took courses on Antifa and Antifa ideology and read over 100 articles and books
11 specifically associated with Antifa. (R.T. 1004:5-12.) These manuals included information on
12 affinity groups, protest tactics, protest gear, Black Bloc, and tactics for concealing one's identity
13 following protests or otherwise illegal activity. (R.T. 1004:12-24.) Detective Clark sought this
14 additional education on Antifa because it was relevant to her investigation. (R.T. 1004:25-26.)

15 As part of the investigation and at the time of the Grand Jury proceedings, Detective
16 Clark had reviewed over 200,000 pages of Facebook, Instagram, Twitter, and Google returns, a
17 couple dozen hours to fifty hours of video, and well over 5-10 terabytes of data. (R.T. 337:22-28;
18 338:1-2.)

19 **Social Media Investigation**

20 Once Detective Clark identified potential suspects from the acts committed on
21 January 9, 2021, she served search warrants on Instagram, Facebook, Twitter, and Google.
22 (R.T. 289:7-11.)

23 ***Brian Lightfoot***

24 Detective Clark served a social media search warrant on Instagram and Facebook
25 for the account names "Bigmoneypaso," "Broketillthe2nd," and "Socal.Antifa." (R.T. 289:20-
26 22.) Additionally, she served a Facebook warrant. (R.T. 289:23-24.) All social media returns
27 Detective Clark received for Defendant Lightfoot's accounts were accompanied with a
28 certificate of authenticity. (R.T. 289:25-27; Exhibit 15.)

1 *Jeremy White*

2 Detective Clark served a social media search warrant on Instagram for the account
3 names “TheAntifaSoldier” and on Twitter for the account name “Megaphoneguy” which
4 included certificates of authenticity in the return. (R.T. 293:7-23, Exhibit 15.)

5 *Jesse Cannon*

6 Detective Clark served a social media search warrant on Instagram and Facebook
7 for the account names: “Tall_Cactus_Snail,” “R.A.B.ID._CRU,” “S.N.A.I.L._CRU,”
8 “TwistedSisterschools,” “Tallcan420,” “SDAGAINSTFASH,” “Snailcage,”
9 “PoliceterrorSurvivorsFund,” “REPORTINGCOLLECTIVESD,” “Dead_Can_Cactus,”
10 “Dead.Can,” “SanDiego_StolenLives,” and “R.A.B.I.D.161.” (R.T. 290:3-14.) All social media
11 returns were accompanied with a certificate of authenticity. (R.T. 289:13-17, Exhibit 15.)

12 *Luis Mora*

13 Detective Clark served a social media search warrant on Instagram for the account
14 name “The_Lumo” which was returned with a certificate of authenticity. (R.T. 292:5-16;
15 Exhibit 15.)

16 *Martin Talab*

17 Detective Clark served a social media warrant on Instagram for the account name
18 “Immortal_Calistenics” and “Martin_Talab” which was returned with a certificate of
19 authenticity. (R.T. 294:12-24; Exhibit 15.)

20 *Alexander Akridgejacobs*

21 Detective Clark served a social media search warrant on Instagram for the account
22 “Alex.Jacobs.27” which was returned with a certificate of authenticity. (R.T. 290:21-28; 291:1;
23 Exhibit 15.)

24 *Joseph Gaskins*

25 Detective Clark served a social media search warrant on Instagram and Facebook
26 for the account names “Joey_Gaskins227,” “Joey_Gaskins,” and “Joey_Gaskins1” which were
27 returned with certificates of authenticity. (R.T. 291:3-13; Exhibit 15.)

28

1 ***Christian Martinez***

2 Detective Clark served a social media search warrant on Instagram and Facebook
3 for the account names "Politichris_67," "Anti-Chris1234," and "Anti-Christ_696." (R.T.
4 293:27-28; 294:1-8; Exhibit 15.)

5 ***Samuel Ogden***

6 Detective Clark served a social media search warrant on Instagram for the account
7 name "Rushellethorn" which was returned with a certificate of authenticity. (R.T. 294:28;
8 295:1-11, Exhibit 15.)

9 ***Bryan Rivera***

10 Detective Clark served a social media search warrant on Instagram for the account
11 names "SVTX.S and "IB.Dog." (R.T. 292:20-28; Exhibit 15.)

12 ***Erich Yach***

13 Detective Clark served a social media search warrant on Instagram for the account
14 names "T4T_Crisis_Intervention," "T4T_Crisis_Interventionquad," "Benjamin_DA_Kat,"
15 "Nikki_She_Her_Hers" and on Facebook for the account names "Erich.Yach.7," and
16 "T4T_Crisis_Intervention." (R.T. 291:18-28; 292:1-4; Exhibit 15.)

17 ***Twitter***

18 Detective Clark served a social media search warrant for the account names
19 "SDAGAINSTFASH," R_C_San Diego," "Jesseca81889424," "MEGAPHONEGUY,"
20 "BLOWMARTIN," and "JOEYGASKINS2" which were returned with a certificate of
21 authenticity. (R.T. 295:16-26; Exhibit 15.)

22 ***Google***

23 Detective Clark served a social media search warrant for the following account
24 names:

25 JEREMYWHITEDESIGNS@GMAIL.COM,

26 THEANTIFASOLDIER@GMAIL.COM,

27 GASKINS.JOEY@GMAIL.COM,

28 JEREMY.WHITE1982@GMAIL.COM,

1 HGTREES420@GMAIL.COM,
2 LUISMORAGD@GMAIL.COM,
3 ALEXAKRIDGE2015@GMAIL.COM,
4 FROMTHECURSEDHOUSE@GMAIL.COM,
5 CXMA45240@GMAIL.COM,
6 T4TCRISISINTERVENTION@GMAIL.COM,
7 MARTINFALCON94@GMAIL.COM,
8 ZIGGYCOMICS@GMAIL.COM,
9 CANDORNOAH@GMAIL.COM,
10 JESSECANNON72@GMAIL.COM,
11 JOEYGASKINS858@GMAIL.COM,
12 ZIGGYCOMICS13@GMAIL.COM,
13 PUMPKIN45791@GMAIL.COM,
14 JOEFAILSTER@GMAIL.COM,
15 TOOLEYJESSE736@GMAIL.COM,
16 ANTIFABOYACAB5@GMAIL.COM,
17 LIGHTFOOTBRIAN93096@GMAIL.COM,
18 EMAILSUCKS420@GMAIL.COM, and
19 LIGHTFOOTBRIAN5@GMAIL.COM.

20 (R.T. 296:2-23; Exhibit 15.) The Google returns were returned with a certificate
21 of authenticity. (R.T. 296:24-26; Exhibit 15.)

22 **Confirmation of Agreement and Riot After January 9, 2021**

23 Through the process of reviewing the defendant's social media returns, it was
24 discovered that defendants commented about the events in the hours and days *after* January 9,
25 2021. Some of these communications are described below.

26

27

28

1 ***Communications on January 9, 2021 – Defendants Lightfoot, Mora and White***

2 On January 9, 2021, Defendant Lightfoot sent a user named DUBRUIT the
3 following message, “**We fucked them up today.**” (R.T. 1204:19-23.) Defendant Lightfoot’s
4 Instagram account posted a photograph taken in Pacific Beach on January 9, 2021 with
5 Defendants Martinez and Talab. (R.T. 326:3-18; Exhibit 14, slide 45.) Next to Defendant
6 Lightfoot was a person holding a black and red flag with the words “Anti-fascist Action.” (R.T.
7 326:19-26; 327:1-2; Exhibit 14, slide 45.) Defendant Lightfoot’s Instagram account showed his
8 face with the tag line “**Antifa Boy**” and a black flag next to it. (R.T. 326:6-9; Exhibit 14, slide
9 45.) The photo was liked one day after the incident by “**ANTIFASOLDIER,**” later identified
10 as Defendant White. (R.T. 328 2-8.)

11 On the evening of January 9, 2021, Defendant Mora sent Defendant Lightfoot the
12 message, “**Fuck them! Business was handled!**” (R.T. 1206:19-24.)

13 ***Communications on January 9, 2021 - Cannon***

14 On January 9, 2021, someone with the user name “aatlas” wrote to Defendant
15 Cannon, “Hey man. How are you doing? I seen most of the shit that went down. I hope you’re
16 okay man.” Defendant Cannon responded, “**All good bro we fucked them nazis up.**” (R.T.
17 1327:25-28; 1328:1-3.)

18 ***Communications on January 10, 2021 - White***

19 Through Twitter on January 10, 2021, in reference to spraying the dog, Defendant
20 White wrote, “**Seems like the animal rights folks should really be mad at the owner who is**
21 **abusing his dog into attacking people. Looks like that gentleman in the dashing armor was**
22 **just keeping people safe.**” (R.T. 1262:15-27.)

23 ***Communications on January 10 and 12, 2021 - Talab***

24 On January 10, Defendant Talab wrote “**Today we squaded up and went to San**
25 **Diego**” and “**It was a good experience. We were very deep in numbers.**” (Exhibit 18.)

26 On January 12, 2021, Defendant Talab (immortal_calisthenics) wrote “**I wish**
27 **there was a video where we took that chuds bike,**” and “**Slashed his tires and put it in the**
28 **dumpster.**” (R.T. 1632:25-28.)

1 *Communications on February 22, 2021 – Lightfoot, Mora, Talab, Martinez and Rivera*

2 On February 22, 2021, Defendant Lightfoot sent a video of bear mace to
3 Defendants Mora, Talab, Martinez, and Rivera that said “**yes sir, I don’t know why they got a**
4 **Bear on here cause it’s for sure for humans.**” (Exhibit 16.)

5 *L.A. Group Instagram Thread Continued on February 25, 2021 – Lightfoot, Mora, Talab,*
6 *Martinez, Rivera*

7 In the Instagram group thread located on Defendant Lightfoot’s social media
8 account, participants posted a photo of the front cover of the San Diego Reader, portraying the
9 defendants engaged in Incident 11. (R.T. 330:16-22.)

10 On February 25, 2021, Defendant Rivera messaged the group, stating, “**We made**
11 **the front page, boys.**” (R.T. 1219:24-27.) Defendant Mora replied the same day at
12 approximately 4:59 p.m., stating, “**Whoa! Fuck the San Diego Reader for false info, but this**
13 **shot looks pretty.**” (R.T. 1220:1-2.) Defendant Rivera commented how he “**kneed that**
14 **motherfucker.**” (R.T. 1925:5-11.) Later, Defendant Martinez replied, “**Fuccccc man. We**
15 **made it. I was there tryna spray his ass,**” and Defendant Mora replied, “**Once I saw him get**
16 **on y’all, he got decked,**” with a laughing emoji. (R.T. 1220:27-28; 1221:2-3.) In the same
17 thread, Defendant Martinez messaged, “**Bro, we’ve got to relive this moment again, boys,**”
18 and Defendant Talab replied, “**Got caught slipping street fight mode,**” and, “**My dogs have**
19 **my back.**” (R.T. 1222:1-4.)

20 At 7:08 p.m., Defendant Lightfoot messaged the group, stating, “**We really be**
21 **whoopin ass,**” followed by, “**March 3, fellas. Save the dates.**” (R.T. 1224:1-2.) The
22 participants then discuss gathering again on March 3, with Defendant Lightfoot saying,
23 “**Remember, we keeping it private. Don’t want to tip them off. They have absolutely no**
24 **clue we are coming or anyone outside their group chat knows that they are doing this,**” and
25 Defendant Mora replied, “**Yup yup. It’s going to be a beautiful day.**” (R.T. 1224:15-20.)
26 Defendant Mora followed up with, “**So it’s just our squad? Or others too,**” and Defendant
27 Lightfoot replied, “**It’s others. Its like 40 of us, right now,**” and, “**Numbers still growing.**”
28

1 (R.T. 1224:21-28; 1225:1.) Defendant Talab replied, asking, “**Awww shit,**” and “**SD coming**
2 **through?**” (R.T. 1225:2-3.)

3 *Communications on November 24, 2021 – White*

4 On November 24, 2021, Defendant White messaged two unknown persons the
5 following, “I kinda sorta dressed in a **bulletproof antifa supersoldier outfit and fought the**
6 **cops and white supremacists during the lockdown.**” (R.T. 1268:25-28; 1269:1-5.)

7 *Joseph Gaskins*

8 Defendant Gaskins’ Instagram return showed him in Pacific Beach on a light pole
9 with a caption that said, “Tell me I don’t look good.” (R.T. 319:16-24; Exhibit 14, slide 39.)
10 The photograph was liked by the Instagram account belonging to R.A.B.I.D_C.R.U associated
11 with Defendant Cannon. (R.T. 320:5-11, Exhibit 14, slide 39.)

12 *Communications on January 10-11, 2021-Erich Yach*

13 Defendant Yach’s Instagram return showed a photograph from Getty Images
14 which depicted Defendant Yach in the middle of spraying victims during Incident One that was
15 shared by Defendant Yach himself numerous times on Instagram. (R.T. 311:17-26, Exhibit 14,
16 slide 36.) On January 10, 2021, Defendant Yach sent a message to Kayla Young, Defendant
17 Ogden’s roommate that said, “We made national attention. I think we need to start a bear spray
18 fund. That shit was magic.” (R.T. 312:3-22; 3; Exhibit 14, slide 36.)

19 On January 11, 2021, in reference to the photo of Defendant Yach spraying E.H.
20 and S.M., Defendant Yach wrote, “Those were the first two racists to get beat up. I grabbed the
21 big dude by the head and maced him up his nose. That’s me still spraying him.” (R.T. 1508:8-
22 15.) He also wrote, “My own little contribution to history. We were like 100+ deep.” (R.T.
23 1508:22-25.)

24 *Communications on January 12, 2021-Alexander Akridgejacobs*

25 On January 12, 2021, Defendant Akridgejacobs sent a text below a picture of
26 Incident 4 that said “**a fash wearing ‘these colors don’t run shirt’ running away from a**
27 **group of Antifa that he fucked around and found out from. Priceless. Every city, every**
28 **town kick out every klu klux klown...**” (R.T. 1598:10-16.)

1 Social Media Evidence

2 Throughout the course of the Grand Jury proceedings, Detective Clark and District
3 Attorney Investigators presented the results of social media return evidence to the Grand Jurors.
4 In late December of 2021, District Attorney Investigators began reviewing social media files
5 related to Defendants. (R.T. 1303:18-21.) Investigators focused their investigations on a period
6 of time spanning from January 1, 2021, to January 31, 2021. (R.T. 1304:8-17.) They looked for
7 information related to the Pacific Beach Protest on January 9, 2021, evidence of membership in
8 Antifa, and evidence of planning or intelligence gathering of other protests. (R.T. 1304:8-15;
9 Exhibit 18.)

10 ***Brian Lightfoot***

11 Jonah Conley is an Investigator with the San Diego County District Attorney's
12 Office, and was assigned to the crimes against peace officers unit at the time of the Grand Jury.
13 (R.T. 384: 3-6; 26-28.) Prior to that, Investigator Conley worked as a police officer for the City
14 of El Cajon for twenty years. (R.T. 384:6-9.) Over the course of his career as a police officer,
15 Investigator Conley started in patrol, then worked uniform gang and street team to combat
16 proactive gang violence throughout the city. (R.T. 384:12-14.) Investigator Conley was
17 assigned to the special investigations unit dealing with narcotics intelligence, outlaw motorcycle
18 gangs, fugitives, vice, and protests. (R.T. 384:12-18.) Investigator Conley was also assigned to
19 the U.S. Marshall's Fugitive task force and the East county Gang Task Force. (R.T. 384:19-
20 21.) Investigator Conley has taken numerous classes on Facebook and CDR returns lasting
21 between four hours to a week in length. (R.T. 385:13-17.)

22 Investigator Conley was assigned to the Pacific Beach January 9 case and was
23 responsible for overseeing all social media and electronic evidence. (R.T. 385:8-9; 24-28.)
24 Investigator Conley was responsible for going through all social media and electronic returns for
25 Defendant Lightfoot. (R.T. 386:1-3.) Investigator Conley subsequently testified on Pacific
26 Beach and Antifa-related social media activity by Defendant Lightfoot. (R.T. 386:25; Exhibit
27 16.)

28

1 Brian Lightfoot's social media was replete with postings of Antifa related content
2 and symbols. (Exhibit 18, Lightfoot.) There were numerous photos of Lightfoot himself
3 dressed in Black Bloc, wearing tactical gear with bear mace, and holding the Antifascist flag.
4 (Exhibit 18, Lightfoot.)

5 Detective Clark also reviewed Defendant Lightfoot's social media noting that
6 under his name he listed "**Antifa Commander and Chief**" with a black flag. (Exhibit 14.)

7 In another exchange at approximately 6:39 p.m. on January 9, 2021, Lightfoot
8 conversed with an individual with account name "DMBRAY," where the individual told
9 Lightfoot, "**You're the leader of Antifa**" to which Lightfoot replied "**Lmaoo**." (R.T. 1166:21-
10 27.) Lightfoot sent similar messages and posts across his social media accounts, with the word
11 "**Antifa**" appearing in Lightfoot's messages 139 times between January 1, 2021, and April 30,
12 2021. (R.T. 1171:16-22.) Lightfoot's Facebook return showed a profile picture of Lightfoot and
13 under his name was the tag line, "**Antifa Commander in Chief**," a black flag, and "#Black
14 Lives Matter." (R.T. 324:26-28; R.T. 325:1-4; Exhibit 14, slide 43.)

15 Within the social media, Investigator Conley located the Los Angeles "Group
16 Thread" (referenced multiple times on p. 5-7 above). (Exhibit 16.) The thread showed
17 planning before and during the day of the Riot, as well as coordinated efforts to travel together
18 from Los Angeles to San Diego. (Exhibit 16.) Discussions specifically included Defendant
19 Lightfoot talking about the Bear Mace he planned to take to San Diego. (Exhibit 16.) There
20 were multiple videos and photos of Lightfoot posted from January 9, 2021 in Pacific Beach.
21 (Exhibit 18, Lightfoot.)

22 *Jeremy White*

23 Justin Bostic is an Investigator with the San Diego County District Attorney's
24 Office. (R.T. 1229:23-25.) He has been employed by the San Diego County District Attorney's
25 Office since 2019. (R.T. 1229:26-27.) Investigator Bostic worked for the Imperial County
26 Sheriff's Office from 2003 to 2005 in assignments including patrol, internet crimes against
27 children ("ICAC"), investigations, and as a sergeant running a detective task force. (R.T. 1230:
28 2-8.) While assigned to ICAC, Investigator Bostic had extensively investigated digital evidence,

1 including emails, cell phones, computers, wireless transactions, and IP addresses. (R.T.
2 1230:12-22.)

3 In early January of 2022, Investigator Bostic began reviewing social media and
4 digital files related to Defendant White. (R.T. 1231:2-6.) Investigator Bostic located and
5 subsequently testified on Pacific Beach and Antifa-related social media activity by Defendant
6 White. (R.T. 1231:10-16; Exhibit 18, White.) Multiple messages related to attending
7 demonstrations with the phrase “bloc up” were located. (Exhibit 18, White.) In one direct
8 message chain, Defendant White is eliciting donations for protest related items, stating he ran
9 out of bear mace and pepper gel, indicating he needed those items. (Exhibit 18, White.)
10 Defendant White’s phone contained multiple images of himself dressed in suits of body armor,
11 and images of his various armor suits and helmets. (Exhibit 18, White.)

12 Defendant White made numerous internet searches for imagery using Antifa as a
13 search term. (Exhibit 18, White.) His outward social media presence saw Defendant White
14 frequently referring to himself as “**ACAB Man**” which stands for “All Cops Are Bastards,” a
15 phrased used very often by Antifa. (R.T. 207:24; 208:5-9; Exhibit 18, White.) Defendant White
16 created a video game “realm” in Minecraft that included the Iron Front logo and invited users to
17 practice their archery skills on Proud Boys. (Exhibit 18, White.) Defendant White frequently
18 posted images of different items of body armor, adorned with ACAB and other symbols.
19 (Exhibit 18, White.)

20 Investigator Bostic located multiple internet searches by Defendant White on how
21 to conceal phone record information. (Exhibit 18, White.)

22 ***Jesse Cannon***

23 Mathew Grindley is an Investigator with the San Diego County District Attorney’s
24 Office. (R.T. 1302:21-23.) Investigator Grindley started his career in law enforcement in 2006
25 with the Las Vegas Metropolitan Police Department as a police officer, where he went through
26 the police academy in the state of Nevada. (R.T. 1302:24-28; 1303:1.) There, Investigator
27 Grindley worked in assignments including patrol, narcotics, gangs, and SWAT. (1303:1-2.) In
28 2010, Investigator Grindley moved to California and continued his career in the field of counter-

1 terrorism, digital technology, and cell phones. (R.T. 1303:3-5.) Prior to joining the San Diego
2 County District Attorney’s Office in 2018, Investigator Grindley worked with the Oceanside
3 Police Department in their gang unit. (R.T. 1303:5-8.) He is a certified instructor for digital
4 technology with California P.O.S.T., and trains other law enforcement officers on the latest
5 developments on investigating cell phone activity, social media accounts, Google, and other
6 platforms that are new to law enforcement. (R.T. 1303:9-13.)

7 In late December of 2021, Investigator Grindley began reviewing social media and
8 digital files related to Defendant Cannon. (R.T. 1303:18-21.) Investigator Grindley located and
9 subsequently testified on Pacific Beach and Antifa-related social media activity by Defendant
10 Cannon. (1303:26-28; Exhibit 18, Cannon.) Within these social media accounts, multiple posts
11 inviting viewers to go to Pacific Beach before 1:00 p.m. on January 9, 2021 were located,
12 multiple mentioning “bloc.” (Exhibit 18, Cannon.) Sometime the call to action was posted
13 multiple times a day, and often included variations on the flier picture in (*Exhibit A above.*)
14 (Exhibit 18, Cannon.) There was significant account activity after the riot celebrating the
15 violence on January 9, 2021. There was also activity on adapting the counter protest to ensure
16 they would successfully be where they believed their targets planned to arrive demonstrate.
17 (Exhibit 18, Cannon.)

18 Investigator Grindley also located various Antifa-affiliated postings such as
19 hashtags with Antifa in them, postings signed as “Antifa,” and posts about Antifa, generally.
20 (Exhibit 18, Cannon.) Most of the accounts had logos, or posted logos, with Antifa in their
21 name, or possessing Antifa motifs. (Exhibit 18, Cannon.) Multiple images were posted that
22 depicted Black Bloc, some specifically from the Pacific Beach incident, including videos of
23 Incidents 1 and 4. (Exhibit 18, Cannon.) One of the accounts, R.A.B.ID._CRU, posted an
24 extensive text explaining its beliefs and positions. (Exhibit 18, Cannon.) Defendant Cannons
25 digital files contained manuals titled, “Forming an Antifa Group,” and “Affinity Groups.”
26 (Exhibit 18, Cannon.)

27

28

1 A large amount of information on collecting the identifying information of law
2 enforcement officers and private individuals was located on Defendant Cannon's social media.
3 (Exhibit 18, Cannon.)

4 ***Luis Mora***

5 Felix Salazar is an Investigator with the San Diego County District Attorney's
6 Office and had been for four years at the time of the Grand Jury. (R.T. 1658: 18-22.)
7 Investigator Salazar has been in Law Enforcement over 20 years, starting his career in the
8 Brawley Police Department and then working in the Carlsbad Police Department before the
9 District Attorney's Office. (R.T. 1658: 23-28.) Investigator Salazar was asked to assist with
10 social media evidence review related to Luis Mora. (R.T. 1659: 2-14.)

11 Within the social media, Investigator Salazar located the Los Angeles "Group
12 Thread" (referenced multiple times on p. 5-7 above). (Exhibit 16.) The thread showed
13 planning before and during the day of the Riot, as well as coordinated efforts to travel together
14 from Los Angeles to San Diego. (Exhibit 18, Mora.) Discussions specifically included
15 Defendant Mora talking to Lightfoot about the Bear Mace he planned to take to San Diego.
16 (Exhibit 18, Mora.) Defendant Mora messaged Defendant Lightfoot about whether he
17 should bring a baton as well. (Exhibit 18, Mora.)

18 There were numerous videos and photographs from Pacific Beach on January 9,
19 2021. (Exhibit 18, Mora.) Mora messaged Lightfoot on January 9, "you famous" and "**Antifa**
20 **fame.**" (Exhibit 18, Mora.)

21 Mora had several posts related to Twisted Tea and a "How To" on Black Bloc
22 tactics and "Action". (Exhibit 18, Mora.) Mora's social media included symbols and phrases
23 affiliated with Antifa. (Exhibit 18, Mora.)

24 ***Martin Talab***

25 Elvys Cabrera is an Investigator with the San Diego County District Attorney's
26 Office. (R.T. 1422:2-3.) Investigator Cabrera worked as a law enforcement officer for two years
27 with the United States Customs Service, twelve years with the sheriff's department, and five
28 years as a District Attorney Investigator. (R.T. 1422:5-10.) Investigator Cabrera had attended

1 numerous classes and courses related to homicides, sexual assaults, computers, and social media
2 websites. (R.T. 1422:13-15.)

3 In October of 2021, Investigator Cabrera began reviewing social media and digital
4 files related to Defendant Talab. (R.T. 1422:20-28; 1423:1-5.) Investigator Cabrera located and
5 subsequently testified on Pacific Beach and Antifa-related social media activity by Defendant
6 Cannon. (R.T. 1423:9-15; Exhibit 18, Talab.) Defendant Talab interacted with the Pacific Beach
7 flier (*Exhibit A above*) using his social media account. (Exhibit 18, Talab.)

8 Within the social media, Investigator Cabrera located the Los Angeles “Group
9 Thread” (referenced multiple times on p. 5-7 above). (Exhibit 16.) The thread showed
10 planning before and during the day of the Riot, as well as coordinated efforts to travel together
11 from Los Angeles to San Diego. (Exhibit 18, Talab.) Discussions specifically included
12 Defendant Talab expressing his desire to go to San Diego with the other members to get “pay
13 back.” (Exhibit 18, Talab.) Defendant Talab specifically discussed making a “plan” to go to San
14 Diego. (Exhibit 18, Talab.) Defendant Talab later sent images of himself at Pacific Beach on
15 January 9, 2021, with Defendants Lightfoot and Martinez. (Exhibit 18, Talab.) He also shared
16 images of Incident 11 (see below). (Exhibit 18, Talab.)

17 Defendant Talab made multiple references to Antifa throughout his social media.
18 (Exhibit 18, Talab.) Images advertised Antifa, ACAB, and other iconography. (Exhibit 18,
19 Talab.)

20 Defendant Talab engaged in message chains where he was instructed on hiding his
21 hair and to avoid wearing distinctive articles. (Exhibit 18, Talab.) Defendant Talab also sent an
22 image of A.F., just prior to A.F. being attacked in Incident 1, as well as video clips of Incident 1
23 (see below). (Exhibit 18, Talab.)

24 *Alexander Akridgejacobs*

25 Elliot Shaffer is an Investigator with the San Diego County District Attorney’s
26 Office. (R.T. 1593:24-26.) Investigator Shafer spent the first twenty years of his law
27 enforcement career with the Chula Vista Police Department where he investigated child abuse
28 and sexual assault, specializing in ICAC. (R.T. 1594:1-6.) Investigator Shaffer has significant

1 experience using forensic digital tools, investigating downloads, uploads, open-source programs,
2 cloud accounts, computer downloads, and file downloads. (R.T. 1594:7-24.)

3 In 2021, Investigator Shaffer began reviewing social media and digital files related
4 to Defendant Akridgejacobs. (R.T. 1594:25-28; 1595:1-12.) Investigator Shaffer located and
5 subsequently testified on Pacific Beach and Antifa-related social media activity by Defendant
6 Cannon. (R.T. 1595:16-20; (Exhibit 18, Akridgejacobs.) Defendant Akridgejacobs shared the
7 Pacific Beach flier through his social media account. (Exhibit 18, Akridgejacobs.) He also
8 shared images of ongoing Incident 4, writing that the victim was running from Antifa. (Exhibit
9 18, Akridgejacobs.) Defendant Akridgejacobs shared images of himself dressed in Black Bloc,
10 and posted videos explaining why he is an anarchist. (Exhibit 18, Akridgejacobs.) He also
11 posted multiple videos and images wearing the same mask as in Pacific Beach on January 9,
12 2021. (Exhibit 18, Akridgejacobs.)

13 Defendant Akridgejacobs posted multiple images advocating for violence against
14 persons of extreme right-wing political views. (Exhibit 18, Akridgejacobs.) He also made posts
15 referencing Twisted Tea and Campbells Soup in a combat motif. (Exhibit 18, Akridgejacobs.)

16 *Christian Martinez*

17 Kelly Stinnette is an Investigator with the San Diego county District Attorney's
18 Office since 2019. (R.T. 1641: 11-13; 22-24.) Investigator Stinnette received a Bachelor's
19 degree in Criminal Justice Administration and a Master's degree in Human Behavior and
20 Psychology. (R.T. 1641: 16-18.) Investigator Stinnette worked Patrol, Vice, Gang Suppression
21 and Sex Crimes during her ten years with the San Diego Police Department. (R.T. 1641: 16-
22 21.) Investigator Stinnette was asked to review the social media and cell phone returns for
23 Christian Martinez. (R.T. 1644: 11-20.)

24 Within the social media, Investigator Stinnette located the Los Angeles "Group
25 Thread" (referenced multiple times on p. 5-7 above). (Exhibit 16.) The thread showed
26 planning before and during the day of the Riot, as well as coordinated efforts to travel together
27 from Los Angeles to San Diego. (Exhibit 18, Martinez.) In a message to an unknown Instagram
28 user on January 2, 2021, Martinez wrote: "it's not a trend," "Antifa is a movement," "**that's**

1 **why Im antifa.”** (Exhibit 18, Martinez.) On January 7, 2021, Martinez messaged an unknown
2 Instagram user “Bro we antifa/mob mode.” (Exhibit 18, Martinez.) There were other Antifa
3 related symbols found in Martinez’ social media returns. (Exhibit 18, Martinez.)

4 ***Joseph Gaskins***

5 Chase Landingin is a Crime and Intelligence Analyst with the San Diego County
6 District Attorney’s Office. (R.T. 1606:19-24.) In this role, Analyst Landingin provides analytical
7 support to District Attorney Investigators to assist with cases. (R.T. 1606:20-24.) Analyst
8 Landingin graduated from the University of California, Irvine, with a degree in Criminology,
9 and later earned a certification with University of California, Riverside, specializing in GIS
10 mapping data, as well as Crime and Intelligence. (R.T. 1606:27-28; 1607:1-13.)

11 In 2021, Analyst Landingin began reviewing social media and digital files related
12 to Defendant Gaskins. (R.T. 1607:14-21.) Analyst Landingin located and subsequently testified
13 on Pacific Beach and Antifa-related social media activity by Defendant Gaskins. (R.T. 1607:22-
14 28; R.T. 1608:1-2; Exhibit 18, Gaskins.) Defendant Gaskins posted various images of himself
15 participating in the events at Pacific Beach on January 9, 2021. (Exhibit 18, Gaskins.) In many
16 of the images, Defendant Gaskins is holding cans of Twisted Tea. (Exhibit 18, Gaskins.)

17 Defendant Gaskins engaged in a messaging thread where he described Defendant
18 Yach pepper spraying a victim in Incident 1. (Exhibit 18, Gaskins.) Defendant Gaskins asks,
19 “What do you think about antifa,” following up with, “look it up we make nazis scared.”
20 (Exhibit 18, Gaskins.)

21 ***Bryan Rivera***

22 Joshua Pittsley is an Investigator for the District Attorney’s Office employed for
23 five years at the time of the Grand Jury. (R.T. 1542:7-11.) Investigator Pittsley started in Law
24 Enforcement at the San Diego Police Department in 2005. (R.T. 1542: 14-15.) After a year,
25 Investigator Pittsley moved to El Cajon Police Department where he worked as a Field Training
26 Officer and Detective in the traffic division. (R.T. 1542:14-19.) Investigator Pittsley has
27 specialized in collision reconstruction and call detail records or utilizing call detail records, and
28 analyzing cell phones for evidence. (R.T. 1542: 18-22.) At the District Attorney’s Office

1 Investigator Pittsley authors and executes search warrants or call detail records for social media,
2 Google, Apple and Icloud. (R.T. 1542: 23-28; 1543: 1.) Investigator Pittsley was asked to look
3 at social media for Bryan Rivera. (R.T. 1544:1-5.)

4 Within the social media, Investigator Conley located the Los Angeles “Group
5 Thread” (referenced multiple times on p. 5-7 above). (Exhibit 16.) The thread showed
6 planning before and during the day of the Riot, as well as coordinated efforts to travel together
7 from Los Angeles to San Diego. (Exhibit 16.) In the Instagram return, on January 10, 2021,
8 Defendant Rivera posted “Some people take issue with the fact that some antifascist activists
9 came prepared yesterday with mace and other non-lethal tools like bats and shields.” (Exhibit
10 18, Rivera.) Rivera took a number of photographs in Pacific Beach on January 9, 2021,
11 including photographs of the Antifa slogans and flags. (Exhibit 18, Rivera.) Rivera’s social
12 media returns included the cartoon schematic (*Exhibit C below*) referenced on page 51 below.

13 ***Eric Yach***

14 Luis Pena has been an Investigator with the San Diego County District Attorney’s
15 office for four years at the time of the Grand Jury. (R.T. 1498: 4-7.) Investigator Pena has been
16 in Law Enforcement for twenty-one years, working for the San Diego County Sheriff’s
17 Department for seventeen years. (R.T. 1498:P10-12.) Investigator Pena worked jails, patrol,
18 sex crimes and worked as a Detective for the Sheriff’s Department. (R.T. 1498: 15-22.)
19 Investigator Pena was asked to review the social media evidence related to Erich Yach. (R.T.
20 1498: 27-28; 1499:1.)

21 Defendant Yach posted many pictures bragging about the tear gas he used in
22 Pacific Beach on January 9, 2021. (Exhibit 18, Yach.) Yach posted: “We beat up a bunch of
23 racists today at a Trump Rally” and “We are out here. Fuckin up Nazis cops didn’t do shit every
24 time one got beat up. They just watched.” (Exhibit 18, Yach.) Yach commented on Instagram,
25 “Your making me blush. People finally listened when told not to run. I enjoyed the separating
26 of blm and antifa making it a viable protest and showing the use of privilege to fight back. Bear
27 spray is magic. (Exhibit 18, Yach.) Yach’s social media contained a collection of other Antifa
28 related symbols and slogans. (Exhibit 18, Yach.)

1 185: 10-24.) Her methods are anthropological, which means she looks at the evidence from the
2 perspective of the group or ideology to interpret their beliefs and symbols. (R.T. 185: 17-28.)

3 Dr. Perlmutter studied the Antifa ideology, anarchists, and extremist symbol and
4 tactics, and mastered the materials to teach classes on those topics. (R.T. 187:25-28.) She
5 expanded her field of study over the past 25 years to include the political ideologies of extremist
6 groups like Antifa and other anarchist groups as well as extremist groups on the political right
7 like white supremacy groups and religions, including the Boogaloo Boys and Diagonon
8 movement. (R.T. 184:16-28; 185:1-3.)

9 Dr. Perlmutter researched primary sources, consisting of field work observing the
10 group and reading the writings and social media postings of Antifa, before researching
11 secondary sources about the group. (R.T. 188:4-14.) This included publicly available online
12 information sites and published manuals that detail how to organize Antifa-affiliated groups, and
13 how they engage in activity supported or encouraged by Antifa's ideology, including hindering
14 any criminal investigations against them. (R.T. 197:28; 198:1-8; 204:15-28; 205:1-5; 215:11-
15 18.) Dr. Perlmutter had researched the emergence of Antifa's violent activity, starting with the
16 Charlottesville Unite the Right rally as the first time Antifa was "out in full force," followed by
17 other incidents including when Antifa members used violence to prevent conservatives from
18 speaking at UC Berkley. (R.T. 199:22-28; 200:1-8.)

19 Dr. Perlmutter trained law enforcement, defense, and intelligence agencies for
20 over 20 years on the topics related to ritualistic crimes, symbology for groups including Antifa
21 and other anarchist movements, as part of a course called the "Police Symbology Series." (R.T.
22 186:2-20.) Dr. Perlmutter specifically teaches a class on Antifa, Anarchists, extremist symbols
23 and tactics. (R.T. 187: 25-28.)

24 Dr. Perlmutter has previously testified as an expert witness in ritual homicide
25 cases, analyzing symbols located at the scenes. (R.T. 183:26-28; 184:1-3.)

26 The testimony the Grand Jurors heard from Dr. Perlmutter regarding Antifa
27 specifically was based on her review of the primary sources and manuals adopted by Antifa
28 members themselves. (R.T. 241:25-27.)

1 ***Antifa and Anarchist Ideology***

2 Dr. Perlmutter described Antifa and anarchist ideology, including the ideology's
3 origins, modern day prerogatives, and shared viewpoints and beliefs among self-identified
4 members. (R.T. 188:17-28; 189:1-3; 190:13-28; 191:1-15.) This included Antifa's recently
5 changed belief that "fascists" include conservatives, supporters of Donald Trump, and law
6 enforcement, often grouping together members of the profession under the label "Nazi." (R.T.
7 189:4-16; 190:3-9.) One Antifa manual called "Crimethinc" lists four primary obligations for
8 Antifa members: (1) track fascists; (2) oppose fascists; (3) support other Antifa members, and;
9 (4) not cooperate with law enforcement. (R.T. 195:17-21; 221:14-19.) Dr. Perlmutter explained
10 Antifa's view that the United States is "an illegitimate country," and how this drives their
11 rhetoric. (R.T. 192:17-28.)

12 Dr. Perlmutter stated that Antifa's language is highly symbolic. (R.T. 195:24-25.)
13 She noted that Antifa's slogans in recent years have become more violent, escalating from
14 referring to law enforcement as "pigs," to "kill police," and "save a child, kill police." (R.T.
15 195:25-28; 196:1-5.) Members of Antifa engage in acts of violence, attempting and justify them
16 as self-defense, framed as defending the world from fascism. (R.T. 212:8-21.) Dr. Perlmutter
17 also identified a variety of symbols and slogans associated with Antifa and their significance to
18 the ideology, including the Antifa logo, the Iron Front logo, the Anarchist Communist Flag, the
19 distinctive anarchist "A," "ACAB," etc. (R.T. 206:10-28; 207:1-28; 208:1-28; 209:1-21; 242:1-
20 28; 243:1.) Dr. Perlmutter described the symbolic significance of logos used by local San Diego
21 Antifa-affiliated groups, and how they were tied to the Antifa's wider ideology. (R.T. 209:22-
22 28; 210:1-28; 211:1-5.)

23 ***Affinity Groups and Communications***

24 Dr. Perlmutter described Antifa's structure as decentralized and non-hierarchical,
25 believing in "leaderless resistance." (R.T. 197:2-7.) Antifa has no single leader, and is made up
26 of hundreds of different groups with as few as two members, up to twenty members. (R.T.
27 197:17-19.) Members organize into what they call "affinity groups" that communicate through
28

1 social media and tie themselves to specific geographic areas, sometimes with multiple groups
2 forming within one area. (R.T. 197:8-10; 198:12-17, 20-25.)

3 Members use private encrypted messaging apps like Signal to communicate with
4 one another, often on matters they would not post on public websites, including when they are
5 preparing to use violence. (R.T. 198:17-19; 203:25-28; 204:1-2.) The affinity groups themselves
6 are closed, with admittance of a new member depending on knowing an existing member well.
7 (R.T. 235:14-19.) Antifa members will post on publicly accessible social media when trying to
8 garner support from outside groups. (R.T. 203:12-17.) The membership within an affinity
9 groups is closed and small, to reduce the chances of collapsing the whole movement should one
10 affinity group be shut down, similar to other extremist groups. (R.T. 197:20-25.) Affinity groups
11 will sometimes communicate with one another to organize counter protests or share information
12 they have collected on persons they have deemed fascists. (R.T. 201:6-21.)

13 Antifa members also train in concealing or otherwise protecting data on their cell
14 phones, with the concern being that members' phones contain information on other members
15 within the affinity group. (R.T. 241:11-24.)

16 ***Doxing***

17 Dr. Perlmutter described different forms of action Antifa members engaged in to
18 achieve their goals that do not involve violence, including "doxing," which is the gathering of
19 personal information on a victim the group decides to target and disseminating that personal
20 information in attempts to harass the victim. (R.T. 218:11-28.) Victims are singled out for
21 doxing based sometimes on their profession, or their presence at a protest, regardless of the
22 victim's actual personal views. (R.T. 220:1-19.) Websites like the "Rose City Antifa" maintain
23 databases of profiles they have collected through doxing. (R.T. 219:14-17.)

24 ***Direct Action and Black Bloc***

25 Dr. Perlmutter explained that Antifa members also engage in "direct action,"
26 wherein members require more than just passive demonstration. (R.T. 221:24-28; 222:1-5.) Dr.
27 Perlmutter described direct actions as "code for being very aggressive," because Antifa groups
28 "can't put that on Twitter and say we're going to meet and start burning things down." (R.T.

1 222:15-17.) Dr. Perlmutter explained the term “direct action” is tied more to aggressive conduct,
2 the bringing of weapons to demonstrations, and “Black Bloc.” (R.T. 222:21-24.)

3 Dr. Perlmutter described Black Bloc as a tactic where all members of a group wear
4 black clothes, headgear, and face coverings, to make themselves less identifiable and create
5 cohesion between members who are participating in a demonstration. (R.T. 222:27-28; 223:1-
6 11; 224:22-28; 227:2-5.) Antifa members disseminate calls to action that include the phrase
7 “Bloc up,” signaling to members to arrive wearing the Black Bloc. (R.T. 223:12-22.) Antifa
8 groups disseminate instructions on how to properly dress for Black Bloc. (R.T. 223:17-18;
9 226:6-14.) Antifa members also provide instructions on how to change out of Black Bloc while
10 avoiding detection, using umbrellas to shield themselves while changing into standard clothes,
11 and blending back into surrounding crowds. (R.T. 225:12-19; 226:15-22.) Black Bloc, although
12 not exclusive to Antifa, is one of Antifa’s primary tactics, and is not often utilized by other
13 organizations that engage in demonstrations, such as Black Lives Matter. (R.T. 223:21-22;
14 224:3-11.) Dr. Perlmutter explained that direct action is code for being very aggressive and that
15 members would come prepared to be more aggressive with Black Bloc and the clothing and all of
16 the weapons. (R.T. 222:18-24.) When members show up en masse in black block it means they
17 are prepared to be violent or do some type of action that is not legal. (R.T. 223:23-28.)

18 Members of Antifa engage in specific training to prepare for direct actions before
19 they occur, including how to use violence effectively and how to undermine law enforcement
20 crowd control tactics. (R.T. 232:23-28; 234:1-16.) Dr. Perlmutter described how Antifa
21 members also train in extracting their members who are about to, or recently were, arrested, by
22 surging their numbers around their arrested member and effectively “dearresting” them, taking
23 them back from law enforcement custody. (R.T. 233:17-27.) This tactic is also circulated
24 through Antifa affiliated literature. (R.T. 233:28; 234:1-4.)

25 Dr. Perlmutter explained for the Grand Jury how Black Bloc serves to facilitate
26 violence, with parts of Black Bloc consisting of gloves, shin padding, and knee pads. (R.T.
27 227:9-11.) The Antifa members’ aim is to accomplish their ideological goals “by any means
28 necessary,” a slogan which Dr. Perlmutter explained means using violence to prevent fascists

1 from demonstrating. (R.T. 227:11-23.) Antifa affinity groups coordinate on encrypted private
2 messaging groups and train to fulfill different roles during direct actions, including medics, legal
3 observers, arrestable members, and traffic control, each role having a specific function at a
4 direct action. (R.T. 227:27-28; 228:1-15; 235:3-8, 11-15.)

5 ***Filming***

6 Some Antifa members, like those in Portland, will identify themselves as
7 journalists and wear “press” emblems to avoid being dispersed. (R.T. 230:8-21.) These Antifa
8 members will film the other Antifa members engaging in direct action, including filming acts of
9 violence against perceived targets, and sharing the footage as a type of “trophy.” (R.T. 230:22-
10 28; 231:1-9.) The footage members publish is heavily edited to make it seem as though the
11 Antifa members are not the aggressors in violent confrontations. (R.T. 232:4-6.)

12 Members of Antifa, Dr. Perlmutter explained, do not like to be filmed by others or
13 risk their identification during direct actions, and take active measures like grabbing cameras to
14 prevent other individuals from filming them. (R.T. 234:11-16.)

15 ***Swarming***

16 Antifa members will engage in “swarming” of targets, where members in Black
17 Bloc surround the target and assault them, using the Black Bloc to obscure their identity. (R.T.
18 234:20-28.) Specifically, a whole group will surround a target, someone will actually assault the
19 person, and then because the group is dress all in black, the victim is unable to identify the
20 assaulter. (R.T. 234:20-24.) After the victim is hurt, the attacker will flow right back in the
21 larger crowd and blend. (R.T. 234: 25-28.)

22 ***Weapons***

23 Dr. Perlmutter testified that several weapons are associated with Antifa’s conduct,
24 including bricks, bottles, frozen water bottles, chains, knives, tools, hammers, noxious gasses,
25 pepper and bear spray, fireworks, and sling shots. (R.T. 236:27-28; 237:1-9.) Dr. Perlmutter
26 noted that in recordings of Antifa members’ direct actions, they demonstrate a preference for
27 bear mace, a type of spray that reaches further than standard pepper spray and has an irritant
28 effect three times greater than standard pepper spray. (R.T. 237:23-28; 238:1-10.)

1 ***Twisted Tea***

2 Dr. Perlmutter noted that members of Antifa have a particular affinity for the
3 “Twisted Tea” beverage, due to its association with a viral video of a man using a Twisted Tea
4 to knock out another man who was harassing him with racist remarks. (R.T. 238:22-28; 239:1-
5 6.) Dr. Perlmutter testified that this viral video gave symbolic meaning to the Twisted Tea
6 beverage itself, and Antifa members subsequently used Twisted Tea as an identifier at protests,
7 as well as a weapon against person they deemed fascists. (R.T. 239:7-17.) A similar
8 phenomenon occurred with cans of Campbells soup, following a statement by Donald Trump
9 about Antifa where he stated they would throw Campbells soup at law enforcement during
10 protests, and claim that they were holding the soup for their families. (R.T. 240:8-14.) Antifa
11 members embraced the expression, “for your family,” in conjunction with Campbells soup cans,
12 putting out slogans and memes adopting it. (R.T. 240:13-24.)

13 ***January 9, 2021***

14 Dr. Perlmutter was asked to examine flags captured in some of the video from
15 Pacific Beach on January 9, 2021. (R.T. 241:28; 242:1-24; Exhibit 14, slides 19, 21, 23.) Dr.
16 Perlmutter identified the Antifa flag and the classic anarchist black and red flag. (R.T. 242:4-6;
17 Exhibit 14, slides 19, 21, 23.) She also commented that the persons holding the flags were
18 wearing Black Bloc gear. (R.T. 242:14-15.)

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1 Dr. Perlmutter was shown an exhibit located in the social media returns that
2 mentioned “black bloc tactics” and “soft bloc attire.” (R.T. 224:12-22; Exhibit 14, slide 15.)
3 She elaborated that the point of black bloc was to advocate for avoiding facial recognition.
4 (R.T. 224:22-28.) Dr. Perlmutter explained that the term “stay tight” refers to walking en masse
5 so you can’t tell anybody apart from each other. (R.T. 225:1-6.) She explained that the term
6 “plan your exit” meant to wear civilian clothes under so you can de-bloc and blend with the
7 crowd to walk away. (R.T. 225:7-9.) Dr. Perlmutter explained that the term “keep it quiet”
8 referenced keeping ones’ mouth shut and not sharing. (R.T. 225:20-26.) When Dr. Perlmutter
9 was shown a hand drawn commercial sketch of a fictional person wearing protective gear
10 (*Attached herein as “Exhibit C”*), she commented that the gear was both protective and
11 concealing because they are going to provoke fights “by any means necessary,” which means
12 they will use violence. (R.T. 226: 23-28; 227:1-15; Exhibit 14, slide 16.)



Exhibit C

1 Dr. Perlmutter was asked to give an opinion on tactical gear and what it means
2 when members of Antifa dress in black bloc with gas masks and weapons. (R.T. 236:10-14.)
3 Dr. Perlmutter opined that the use of black bloc and tactical gear would indicate a preparation to
4 do battle or to engage in fights or violence with protestors; consistent with the Antifa ideology
5 to stop fascists from putting out information, getting attention, and to stop them from
6 demonstrating and rallying. (R.T. 236:15-23.)

7 Dr. Perlmutter was not shown any incident video from the attacks in Pacific
8 Beach. (R.T. 221:20-23.)

9 **POINTS, AUTHORITIES, AND ARGUMENT IN SUPPORT OF OPPOSITION**
10 **TO MOTION TO SET ASIDE INDICTMENT**

11 **I.**

12 **AN INDICTMENT SHOULD NOT BE DISTURBED WHEN THERE IS SOME**
13 **RATIONAL GROUND TO ASSUME THE POSSIBILITY THAT A CRIME HAS BEEN**
14 **COMMITTED BY THE DEFENDANTS**

15 The grand jury—like a magistrate deciding whether to bind a felony criminal
16 defendant over for trial—need only determine whether sufficient or probable cause exists to
17 return an indictment. In other words, the grand jury need be convinced of merely such a state of
18 facts as would lead a person of ordinary caution or prudence to believe and conscientiously
19 entertain a strong suspicion of the guilt of the accused. (*Stark v. Superior Court* (2011) 52 Cal.4th
20 368, 406; *Cummiskey v. Superior Court* (1992) 3 Cal.4th 1018, 1026-1027.)

21 A motion to dismiss under Penal Code section 995, whether directed to an
22 indictment or an information, is governed by a single standard. *The reviewing court may not*
23 *reweigh the evidence or substitute its judgment as to the weight of the evidence or credibility of*
24 *witnesses for that of the grand jury.* Nor does the reviewing court resolve factual contentions.
25 (*People v. Pic'l* (1982) 31 Cal.3d 731, 737; *Jackson v. Superior Court* (1965) 62 Cal.2d 521, 530;
26 *Lewis v. Superior Court* (1990) 217 Cal.App.3d 379, 384.) “[I]f there is some evidence to support
27 the indictment, the courts will not inquire into its sufficiency.” (*Somers v. Superior Court* (1973)
28 32 Cal.App.3d 961, 963; see also *Jackson v. Superior Court, supra*, at p. 525.)

1 All reasonable inferences that may be drawn from the evidence must be drawn in
2 favor of the indictment. (*Stark v. Superior Court, supra*, 52 Cal.4th at pp. 406-407; see also
3 *Jackson v. Superior Court, supra*, 62 Cal.2d at p. 530; *People v. Gnass* (2002) 101 Cal.App.4th
4 1271, 1289; *People v. Shirley* (1978) 78 Cal.App.3d 424, 431.) “An indictment may be justified
5 even if the evidence leaves some room for doubt. [Citation.] As a result, an indictment should be
6 set aside only if there is no evidence that a crime was committed or there is no evidence to
7 connect the defendant with a crime shown to have been committed. [Citations.]” (*People v.*
8 *Superior Court (Costa)* (2010) 183 Cal.App.4th 690, 698.) “And, while there must be *some*
9 showing as to the existence of each element of the crime, such a showing may be made by
10 means of circumstantial evidence supportive of reasonable inferences.” (*Id.* at p. 699, italics in
11 original; see also *Stark v. Superior Court, supra*, at p. 407.)

12 In short, an indictment should not be set aside under Penal Code section 995 if
13 there is some rational ground for assuming the possibility that an offense has been committed
14 and the accused is guilty of it. (*Cummiskey v. Superior Court, supra*, 3 Cal.4th at p. 1027;
15 *People v. Pic'l, supra*, 31 Cal.3d at p. 737; *Somers v. Superior Court, supra*, 32 Cal.App.3d at p.
16 963; *Bompensiero v. Superior Court* (1955) 44 Cal.2d 178, 183-184.)

17 **II.**

18 **DR. PERLMUTTER WAS A QUALIFIED EXPERT AND HER EXPERT**
19 **TESTIMONY WAS RELEVANT AND ADMISSIBLE**

20 As extensively laid out by the People in the statement of facts within this motion,
21 Dr. Perlmutter’s background, education, qualifications, and specific study, research, education,
22 and training as it related to Antifa, qualified her as an expert in the matter to which she testified
23 before the Grand Jurors. Further, the information provided through Dr. Perlmutter’s expert
24 testimony was necessary to explain concepts of which the jury would otherwise have no
25 knowledge. The testimony of Dr. Perlmutter was material, and relevant.

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1 **A. Foundation for Admission**

2 Evidence Code § 720(a) provides that “[a] person is qualified to testify as an
3 expert if he has special knowledge, skill, experience, training, or education sufficient to qualify
4 him as an expert on the subject to which his testimony relates.” Pursuant to Evidence Code §
5 801, such expert opinion is admissible if the opinion is “[r]elated to a subject that is sufficiently
6 beyond common experience that the opinion of an expert would assist the trier of fact” and is
7 “[b]ased on matter . . . perceived by or personally known to the witness or made known to him
8 at or before the hearing.” Gang expert evidence, for example, has repeatedly been held to be
9 such evidence. “[D]etermining whether someone is involved [in a gang] and the level of
10 involvement is not a simple matter and requires the accumulation of a wide variety of evidence
11 over time and its evaluation by those familiar with gang arcana in light of pertinent criteria.”
12 (*People v. Valdez* (1997) 58 Cal.App.4th 494, 507.)

13 In *People v. Williams* (1997) 16 Cal.4th 153, 194-96, the California Supreme
14 Court considered a challenge to the qualifications of gang experts in a case of retaliation murder
15 between the Bloods and the Crips in Los Angeles. The court held that the officers involved were
16 properly qualified as experts and permitted to testify based on their “special knowledge, skill,
17 experience, training [and] education” under Evidence Code § 720. Officers had testified that
18 they had attended many seminars and classes on gang activity and gang crime and had
19 investigated numerous gang homicides. (See also *People v. Vy* (2004) 122 Cal.App.4th 1209,
20 1218 fn.6; *People v. Augborne* (2002) 104 Cal.App.4th 362, 372; *People v. Loewen* (1997) 17
21 Cal.4th 1, 6.)

22 Expert testimony not concerning scientific evidence is generally not subject to the
23 *Kelly* test concerning “reliable methodology.” (*People v. Hill* (2011) 191 Cal.App.4th 1104,
24 1123-24.)

25 Dr. Perlmutter’s background, education, qualifications, and specific education as it
26 related to Antifa, were provided to the Grand Jury prior to rendering any opinions on the subject
27 matter related to her training and experience. Her special knowledge, skill, experience, training,
28 and education were more than sufficient to qualify her as an expert in the area of Antifa. The

1 matters on which Dr. Perlmutter testified were certainly topics the ordinary person would have
2 little to no knowledge on. Her methodology is not subject to the *Kelly* test, as this area is clearly
3 not a scientific or technical one. Given these facts, and what was presented to the Grand Jury,
4 Dr. Perlmutter’s testimony as an expert witness possessed the proper foundation and was
5 admissible.

6 **B. The Testimony was Relevant, Material, and Admissible**

7 Expert testimony need not be necessary in order to be admissible; it need only be
8 helpful to the trier of fact. (*People v. Prince* (2007) 40 Cal.4th 1179, 1222; *People v. Cramblit*
9 (1978) 84 Cal.App.3d 437, 446 fn.3.)

10 The jury need not be wholly ignorant of the subject matter of the
11 opinion in order to justify its admission; if that were the test, little
12 expert opinion testimony would ever be heard. Instead, the statute
13 declares that even if the jury has some knowledge of the matter, expert
14 opinion may be admitted whenever it would “assist” the jury. It will be
15 excluded only when it would add nothing at all to the jury’s common
16 fund of information, i.e., when “the subject of inquiry is one of such
common knowledge that men of ordinary education could reach a
conclusion as intelligently as the witness.”

17 (*People v. McDonald* (1984) 37 Cal.3d 351, 367, citations omitted.)

18 The Evidence Code authorizes the use of expert opinion testimony generally when
19 it is “[r]elated to a subject that is sufficiently beyond common experience that the opinion of an
20 expert would assist the trier of fact” (Evid. Code, § 801, subd. (a); see generally, *People v.*
21 *Sandoval* (2015) 62 Cal.4th 394, 414-415; *People v. Vang* (2011) 52 Cal.4th 1038, 1044; *People*
22 *v. Prince* (2007) 40 Cal.4th 1179, 1222; see also *People v. Singleton* (2010) 182 Cal.App.4th 1,
23 20-21.) “Necessity ... is not the measure for the admissibility of expert evidence. ‘... Rather, the
24 pertinent question is whether, even if jurors have some knowledge of the subject matter, expert
25 opinion testimony would assist the jury.’ [Citation.]” (*People v. Sibrian* (2016) 3 Cal.App.5th
26 127, 134 [expert opinion regarding excessive use of force by police officer properly admitted];
27 see also *People v. Sotelo-Urena* (2016) 4 Cal.App.5th 732, 753-756 [effects of chronic
28 homelessness sufficiently beyond common experience]; distinguish *People v. Brown* (2016) 245

1 Cal.App.4th 140, 163-165 [expert testimony regarding excessive use of force improperly
2 admitted and exceeded bounds of proper expert opinion].)

3 If the expert's testimony would not materially assist the jury the court should
4 exclude the expert testimony. (See, e.g., *People v. McDowell* (2012) 54 Cal.4th 395, 425-430;
5 *People v. Ramos* (2004) 121 Cal.App.4th 1194, 1205-1207.) "Expert opinion is not admissible
6 [in California] if it consists of inferences and conclusions which can be drawn as easily and
7 intelligently by the trier of fact as by the witness." (*People v. Torres* (1995) 33 Cal.App.4th 37,
8 45; see also *People v. Daniels* (2009) 176 Cal.App.4th 304, 323.) Expert opinion testimony
9 should be excluded when it would add nothing at all to the jury's common fund of information.
10 (*People v. Dalton* (2019) 7 Cal.5th 166, 237; *People v. Brown* (2014) 59 Cal.4th 86, 101.)

11 As a general rule expert opinion testimony is limited to an opinion
12 that is "[r]elated to a subject that is sufficiently beyond common
13 experience that the opinion ... would assist the trier of fact."
14 (Evid. Code, § 801, subd. (a).) Because admissibility of expert
15 opinion is a question of degree, and a jury need not be wholly
16 ignorant of the subject matter under the statutory rule, exclusion is
17 only necessary where the opinion would add nothing at all to the
18 jury's common fund of information. (*People v. McAlpin* (1991) 53
19 Cal.3d 1289, 1299-1300.) For example, courts have repeatedly
20 recognized the appropriate use of expert testimony when an alleged
21 victim's actions during or following a crime seem to contradict the
22 victim's claims in cases of alleged molestation or abuse. (See *People*
23 *v. Riggs* (2008) 44 Cal.4th 248, 293 [expert testimony addressing
24 battered woman's syndrome]; *People v. Patino* (1994) 26
25 Cal.App.4th 1737, 1744 [expert testimony concerning child sexual
26 abuse accommodation syndrome].) "A trial court's decision as to
27 whether a particular subject is a proper one for expert opinion is
28 reviewed for abuse of discretion." (*People v. Guerra* (2006) 37
Cal.4th 1067, 1118, overruled on another ground in *People v. Rundle*
(2008) 43 Cal.4th 76, 151.)

25 (*People v. Dejourney* (2011) 192 Cal.App.4th 1091, 1110 [expert witness properly admitted to
26 explain why developmentally disabled rape victim would not seek assistance when faced with
27 threat]; see also *People v. Edwards* (2013) 57 Cal.4th 658, 709 ["Dr. Fukumoto's medical
28 expertise provided additional insight above and beyond the jury's general knowledge in the

1 areas of whether the genital injuries occurred before death, and whether these and other injuries
2 were painful”]; *People v. Jones* (2012) 54 Cal.4th 1, 60 [pathologist properly allowed to testify
3 whether sexual assault of victim occurred before rather than after killing].)

4 Admission of such expert testimony is reviewed only for clear abuse of discretion.
5 (*People v. Prince* (2007) 40 Cal.4th 1179, 1222.)

6 In the instant case, Dr. Perlmutter’s expert testimony was provided to give the Grand
7 Jurors information about a distinct group: Antifa. While some Grand Jurors may have heard of
8 Antifa, Dr. Perlmutter’s expert testimony concerned Antifa’s ideology and tactics. Knowledge
9 about Antifa ideology and tactics was a topic well beyond the common experience of an average
10 person, and the information could only have come from an expert opinion. This expert testimony
11 was provided to give Grand Jurors knowledge and a framework for the evidence that they would
12 not have otherwise had. In other words, it was provided to assist them. This knowledge was
13 necessary to materially assist the Grand Jurors and was provided to help them receive and interpret
14 the evidence presented to determine whether there was sufficient evidence of Count 1, Conspiracy.

15 This Court cannot discount the importance of Count 1 in this analysis. In order to
16 prove Conspiracy, the people were required to provide the Grand Jurors with sufficient proof that
17 (1) the defendant(s) intend to agree and did agree with one or more defendant or coparticipant to
18 commit Riot, (2) At the time of the agreement, the defendant(s) and one or more of the other
19 alleged members of the conspiracy intended that one or more of them would commit Riot; and (3)
20 One of the defendants or uncharged coconspirators or all of them committed at least one overt act
21 to accomplish Riot. (CALCRIM 415.)

22 The Grand Jurors were instructed that the People were required to prove that the
23 members of the alleged conspiracy had an **agreement** and **intent** to commit Riot. The Grand Jurors
24 were further instructed in conformity with the law that the People do not have to prove that any of
25 the members of the alleged conspiracy actually met or came to a detailed or formal agreement to
26 commit that crime, as the law provides that, “**An agreement may be inferred from conduct if you**
27 **conclude that members of the alleged conspiracy acted with a common purpose to commit the**
28 **crime.**” (CALCRIM 415.)

1 Adequately proving agreement required knowledge of Antifa. As to Defendants
2 Lightfoot, Mora, and Talab, there was evidence on express agreement presented to the Grand
3 Jurors. However, much of the evidence of agreement the People presented had to do with the fact
4 that the agreement and intent to Riot could be *inferred* from Defendants' conduct if the Grand
5 Jurors concluded that members of the alleged conspiracy acted with a *common purpose* to commit
6 the crime. The Grand Jurors were required to determine whether the defendants' conduct could
7 reasonably lead to an inference that there was *agreement* to satisfy the element of Conspiracy.

8 Without Dr. Perlmutter, the Grand Jurors would not necessarily know the meaning of
9 Antifa terms of art like "direct action" or "action" or the significance of Defendants arriving to
10 Pacific Beach in "Black Bloc" armed with weapons like bear mace. Without expert testimony, the
11 Grand Jurors would not have heard the description of "affinity groups" who were responsible for
12 planning and coordinating the gathering of Antifa in Pacific Beach on January 9, 2021. The Grand
13 Jurors would not have known the significance Antifa places on communicating their intended
14 "action(s)" through encrypted applications like Signal when preparing to use violence. Without the
15 expert, the Grand Jurors would not have known about the swarming tactic used by Antifa or of the
16 concept of doxing. The Grand Jurors would not have known the significance and symbology of the
17 Twisted Tea can weapon utilized through the attacks in Pacific Beach. Without the expert opinion,
18 the jurors would not understand that the ideology of Antifa is to "oppose fascists" and what groups
19 Antifa considers to be fascist.

20 Without the expert opinion of Dr. Perlmutter, the Grand Jurors would not have
21 understood that Antifa is a leaderless organization and that even if they didn't personally know the
22 other members, they could easily recognize the symbols, chants, and uniform worn by another
23 member to understand that they were agreeing, aiding, assisting, and cooperating with another
24 member who shared the same intentions. (CALCRIM 415.) As the CALCRIM instructs, "A
25 member of a conspiracy does not have to personally known the identity or roles of all the other
26 members." (CALCRIM 415.)

27

28

1 Dr. Perlmutter's testimony on the ideology and tactics of Antifa assisted the Grand
2 Jurors in their task to decide whether Defendants were acting with the same ideology and tactics. If
3 the Grand Jurors determined that defendants acted with common purpose to commit the crime of
4 Riot, it could be inferred that there was **agreement**, a required element of the crime Conspiracy.
5 The Grand Jurors, throughout the case, saw video and heard testimony of Defendants acting with
6 common purpose during attacks, moving in Black Bloc, swarming, chanting "ACAB," brandishing
7 Twisted Tea cans or using them as weapons, and more. Dr. Perlmutter's testimony gave the Grand
8 Jury the assistance they needed to assess whether those elements of Defendants' conduct were
9 proof of implied agreement.

10 The testimony of Dr. Perlmutter was material, relevant, and necessary to the question
11 of whether there was sufficient proof of Conspiracy alleged in Count 1. Each and every one of the
12 above listed points have specific meaning, significance, and utility to Antifa. Without assistance in
13 understanding that significance, the Grand Jury may have simply applied plain meaning to much of
14 this evidence that, in reality, had incredible significance.

15 **C. An Expert May Render an Opinion based on Matter within their Special**
16 **Knowledge, Skill, and Experience**

17 Evidence Code section 802 allows an expert witness giving opinion testimony to
18 state on direct examination the matter upon which that opinion is based. (*People v. Veamatahau*
19 (2020) 9 Cal.5th 16, 21) "Generally, an expert may rely on inadmissible hearsay to support his
20 or her opinion if reliance on such hearsay is reasonable for that purpose." (*People v. Landau*
21 (2016) 246 Cal.App.4th 850, 866.) "Since an expert's opinion 'is no better than the facts on
22 which it is based' ' [citation], experts should generally be allowed to testify to all facts upon
23 which they base their opinions. [Citation.]" (*People v. Bordelon* (2008) 162 Cal.App.4th 1311,
24 1324.) "In addition to matters within their own personal knowledge, experts may relate
25 information acquired through their training and experience, even though that information may
26 have been derived from conversations with others, lectures, study of learned treatises, etc."
27 (*People v. Sanchez* (2016) 63 Cal.4th 665, 675 (*Sanchez*) [distinguishing between permissible
28 hearsay in the form of background information and impermissible case-specific hearsay]; see

1 also *People v. Andrews* (2019) 32 Cal.App.5th 1102, 1131, 1137-1138; *People v. Vega-Robles*
2 (2017) 9 Cal.App.5th 382, 411.)

3 [W]e do not see how expert witnesses are doing something other
4 than making use of their expertise when they rely on their “special
5 knowledge, skill, experience, training, and education” to (1) select a
6 source to consult, (2) digest the information from that source,
7 (3) form an opinion about the reliability of the source based on their
8 experience in the field, and (4) apply the information garnered from
9 the source to the (independently established) facts of a particular
10 case. ([Evid. Code,] §§ 801, 802.) Without suggesting that this is (or
11 needs to be) the process underlying every instance of expert
12 testimony, we think that when experts engage in such an inquiry,
they are drawing upon their “special knowledge, skill, experience,
training, and education” to form an opinion about the case. (*Ibid.*)
Under our evidentiary law, experts may make such use of their
knowledge— and may tell the jury that they did so. (§§ 801, 802.)

13 (*People v. Veamatahau, supra*, 9 Cal.5th at p. 29; see also *People v. Thompkins* (2020) 50
14 Cal.App.5th 365,407.) If the hearsay relied upon by the expert is not case-specific the evidence
15 can be admitted for its truth. (*Sanchez, supra*, 63 Cal.4th at pp. 685-686.)

16 For example, the California Supreme Court has held that it was proper for a
17 criminalist to identify a pill as a controlled substance by comparing it to pictures and
18 descriptions on an Internet website that was generally accepted method of testing under the
19 circumstances. (*People v. Veamatahau, supra*, 9 Cal.5th at pp. 26-28; distinguish *People v.*
20 *Espinoza* (2018) 23 Cal.App.5th 317, 321 [Ident-A-Drug website found to come within the
21 published compilation exception to the hearsay rule per Evid. Code, § 1340]; *People v. Mooring*
22 (2017) 15 Cal.App.5th 928, 941-943 [also holding the content of the Ident-A-Drug website were
23 not testimonial].)

24 An expert, in forming his or her opinions, may (and often must) rely upon hearsay
25 and other inadmissible evidence. (See *People v. McDaniels* (1980) 107 Cal.App.3d 898, 905;
26 *People v. Sanchez* (2016) 63 Cal.4th 665, 685.) A threshold requirement of reliability must be
27 shown through establishing that the expert's opinion is based on material “of a type reasonably
28 relied upon by experts in the particular field in forming their opinions.” (Evidence Code §

1 801(b).) As long as the threshold requirement of reliability is established, even ordinarily
2 inadmissible evidence, such as hearsay, can properly form the basis for the expert's opinion.
3 (*People v. Hill* (2011) 191 Cal.App.4th 1104, 1122.) This issue has been extensively addressed
4 in the context of gang experts. "A gang expert's overall opinion is typically based on
5 information drawn from many sources and on years of experience, which in sum may be
6 reliable." (*People v. Gonzalez* (2006) 38 Cal.4th 932, 949.)

7 Evidence Code § 801 states in pertinent part as follows:

8 If a witness is testifying as an expert, his testimony in the form of an
9 opinion is limited to such an opinion as is ... (b) Based on matter
10 (including his special knowledge, skill, experience, training, and
11 education) perceived by or personally known to the witness or made
12 known to him at or before the hearing, ***whether or not admissible***,
13 that is of a type that reasonably may be relied upon by an expert in
forming an opinion upon the subject to which his testimony
relates... [emphasis added].

14 Commenting on the application of Evidence Code § 801(b) to expert gang
15 opinion, the court in *People v. McDaniels* (1980) 107 Cal.App.3d 898, 905 stated:

16 Defendant has made no showing that the matter relied on here was
17 other than of "a type that reasonably may be relied upon by an
18 expert." Indeed as the Law Revision Commission Comment to
19 [Evidence Code section] 801 notes, "[t]he variation in the
20 permissible bases of expert opinion is unavoidable in light of the
21 wide variety of subjects upon which such opinion can be offered. In
22 regard to such matter of expert opinion, an expert *must*, if he is going
23 to give an opinion that will be helpful to the jury, rely on reports,
statements, and other information that might not be admissible
evidence." Such was necessarily the case, we think, with regard to
the type of sociological evidence presented in this instance.

24 1. Expert opinion may encompass the ultimate issue in a case.

25 "Expert opinion testimony may not invade the province of the jury to decide a
26 case. [Citations.] Thus, expert opinion testimony that merely expresses a general belief as to
27 how the jury should decide the case is not permissible. [Citation.]" (*People v. Lowe* (2012) 211
28 Cal.App.4th 678, 684 (*Lowe*); see also *People v. Julian* (2019) 34 Cal.App.5th 878, 885-886

1 [error to admit statistic evidence of how often children alleging sexual abuse tell the truth];
2 *People v. Wilson* (2019) 33 Cal.App.5th 559, 570-571 [accord].) Nevertheless:

3 Expert opinion testimony is not inadmissible merely “because it
4 embraces the ultimate issue to be decided by the trier of fact.”
5 (Evid. Code, § 805.) As the California Supreme Court explained,
6 “There is no hard and fast rule that the expert cannot be asked a
7 question that coincides with the ultimate issue in the case. ‘We think
8 the true rule is that admissibility depends on the nature of the issue
9 and the circumstances of the case, there being a large element of
10 judicial discretion involved. ... Oftentimes an opinion may be
11 received on a simple ultimate issue, even when it is the sole one, as
12 for example where the issue is the value of an article, or the sanity of
a person; because it cannot be further simplified and cannot be fully
tried without hearing opinions from those in better position to form
them than the jury can be placed in.’ ” (*People v. Wilson* (1944) 25
Cal.2d 341, 349.)

13 (*Lowe, supra*, 211 Cal.App.4th at p. 684; see also *People v. Brown* (2014) 59 Cal.4th 86, 101.)

14 The appellate court in *Lowe*, for example, held that in a sexually
15 violent predator trial:

16 [T]he People’s experts focused their remarks on their individual
17 assessments of Lowe’s mental health and recidivism risk, the
18 assessment methods they used, the research underlying the
19 assessment methods, and the facts they believed were most probative
20 of Lowe’s mental health and recidivism risk. They did not compare
21 or critique the other experts’ opinions or otherwise attempt to weigh
22 the evidence before the jury. Consequently, unlike the expert in
23 *Summers [v. A.L. Gilbert Co. (1999)]* 69 Cal.App.4th 1155, the
People’s experts did not cross the line from testifying to advocating
for a specific outcome, and the trial court did not err by allowing
them to testify why they believed Lowe was “likely” to engage in
“predatory” sexually violent offenses in the future.

24 (*Lowe, supra*, 211 Cal.App.4th at p. 686.)

25 In contrast, the defense pathologist in *People v. Duong* (2020) 10 Cal.5th 36 was
26 properly precluded from testifying that some gunshot wounds were from the purposeful fired but
27 other were not. “ ‘[O]pinions on guilt or innocence are inadmissible because they are of no
28 assistance to the trier of fact.’ [Citation.]” (*Id* at p. 60.) The proffered expert testimony was

1 “ ‘tantamount to expressing an opinion as to defendant’s guilt’ [citation] because it proposed to
2 dispose of an essential element of the crime.” (*Id.* at p. 61.) And because the opinion was not
3 based on any medical evidence, but on the same facts and circumstances regarding the crime
4 that the jury had already received, it could not reasonably assist them in their decision making.
5 (*Ibid.*)

6 2. Experts may be questioned in the form of a hypothetical.

7 Questioning an expert in the form of hypotheticals is proper. Questioning a gang
8 expert in the form of hypothetical questions based on the evidence adduced at trial has been
9 explicitly approved by the California Supreme Court. (*People v. Vang* (2011) 52 Cal.4th 1038;
10 *People v. Gonzalez* (2006) 38 Cal.4th 932, 946-47 fn. 3.) *Vang* provides a detailed analysis of
11 the role played by hypothetical questions to an expert, and the breadth of allowable opinions
12 based on hypothetical facts. As a general matter, hypothetical questions must be rooted in the
13 facts shown by the evidence or on any theory that can be deduced from the evidence and need
14 not encompass the entirety of the available evidence. (*Vang, supra*, at p. 1045-1046.) As
15 various factual scenarios may be supportable by the evidence, these various scenarios may also
16 be explored with the expert as to how they may or may not affect the expert’s opinion. (*Vang,*
17 *supra*, at p. 1050-1051.)

18 Dr. Perlmutter’s opinion on tactical gear and what it means when members of
19 Antifa dress in Black Bloc with gas masks and weapons was not tantamount to an opinion on the
20 charged defendant’s specific intent to riot in this case. Her opinion was that the use of Black
21 Bloc and tactical gear would indicate a preparation to do battle or to engage in fights or violence
22 with protestors; consistent with the Antifa ideology to stop fascists from putting out information,
23 getting attention, and to stop them from demonstrating and rallying. While this opinion may
24 coincide with the issues in the case, this opinion was in no way an expression of the charged
25 defendant’s guilt. The opinion that clothing and weapons belied a readiness to engage in fights
26 was properly based on matter within Dr. Perlmutter’s special knowledge, skill, experience,
27 training, and education.

28

1 During the Grand Jury, the hypotheticals posed to Dr. Perlmutter were based on
2 the evidence presented at the Grand Jury. The hypothetical posed to Dr. Perlmutter about Black
3 Bloc was rooted in the Antifa materials she reviewed, having been specifically prompted by an
4 *animated picture (see “Exhibit C” attached above)*. The hypothetical was proper and highly
5 probative to the Grand Jury in this specific case. The Grand Jury was provided the necessary
6 background on Black Bloc and Antifa to properly weigh the hypothetical question and had the
7 ability to decide the significance of Black Bloc as it appeared on January 9, 2021.

8 **D. An Expert May *Rely* on Hearsay and Other Inadmissible Evidence in**
9 **Reaching an Opinion, Even in a Post-*Sanchez* World**

10 In *People v. Sanchez* (2016) 63 Cal.4th 665, the California Supreme Court held
11 that an expert may not testify to “case-specific” facts asserted in hearsay statements unless such
12 facts have been independently established by competent evidence or fall within a hearsay
13 exception. (*People v. Sanchez* (2016) 63 Cal.4th 665, 684-686.) In its decision, *Sanchez* clarified
14 “the degree to which the *Crawford* rule limits an expert witness from relating case-specific
15 hearsay content in explaining the basis for his opinion [and] ... the proper application of
16 Evidence Code sections 801 and 802, relating to the scope of expert testimony.” (*Id.* at 670.)

17 Previously, courts had resolved this issue with an inquiry into the bases’ reliability
18 and a limiting instruction that the admission of these bases were not to be considered for its
19 truth, but rather only as the bases of the expert’s opinion. (See *People v. Montiel* (1993) 5
20 Cal.4th 877, 919, 21; *People v. Coleman* (1985) 38 Cal.3d 69, 91-93.) The *Sanchez* Court
21 decided that this paradigm was “no longer tenable.” (*Sanchez, supra*, at 679.)

22 In *Sanchez*, the gang expert gave his opinion at trial as to the defendant’s gang
23 membership. On *direct examination*, the prosecutor solicited the basis of this opinion to which
24 the gang expert testified to *case specific* information found within police reports, a Street
25 Terrorism Enforcement and Prevention Act (STEP) notice, and field identification (FI) cards.
26 These were all documents that had been prepared by other officers. (*Id.* at 672.) This hearsay
27 information was all presented to the jury as the basis for the expert’s opinion, but necessarily
28

1 must have been accepted as fact by the jury to weigh the opinion. From this information, the
2 expert opined that the defendant was a member of the Delhi gang. (*Id.* at 673.)

3 On cross-examination, the expert admitted the following: (1) he had never met
4 defendant; (2) he was not present when defendant was given the STEP notice; (3) he was not
5 present during any of defendant's other police contacts; (4) his knowledge of the prior gang
6 incidents was derived solely from police reports; and (5) his knowledge of a prior police contact
7 was based on an FI card that he did not prepare. (*Ibid.*)

8 Based on this record, *Sanchez* held that the “case-specific statements” related by
9 the expert, when solicited by the prosecutor during direct examination, concerning defendant's
10 gang membership constituted inadmissible hearsay. *Sanchez* defined case-specific facts as
11 “those relating to the particular events and participants alleged to have been involved in the case
12 being tried.” (*Id.* at 676.) “They were recited by the expert, who presented them as true
13 statements of fact, without the requisite independent proof.” (*Id.* at 671.) The court concluded
14 that some of the hearsay statements, namely those contained in police reports and the STEP
15 notice, were “testimonial” as they were sufficiently formal and gathered during official
16 investigation. Thus, they should have been excluded under *Crawford*. (*Ibid.*)

17 In sum, the court adopted the following rule:

18 When any expert relates to the jury case-specific out-of-court
19 statements, and treats the content of those statements as true and
20 accurate to support the expert's opinion, the statements are hearsay.
21 It cannot logically be maintained that the statements are not being
22 admitted for their truth. If the case is one in which a prosecution
23 expert seeks to relate *testimonial* hearsay, there is a confrontation
24 clause violation unless (1) there is a showing of unavailability and
25 (2) the defendant had a prior opportunity for cross-examination, or
26 forfeited that right by wrongdoing.

27 (*Id.* at 686, original italics.)
28

1 **E. An Expert May Still Relate *General Knowledge* to the Jury, Even in a Post-**
2 ***Sanchez* World**

3 Evidence Code § 802 provides, “A witness testifying in the form of an opinion
4 may state *on direct examination* the reasons for his opinion and the matter ... upon which it is
5 based; unless he is precluded by law from using such reasons or matter as a basis for his
6 opinion.” [emphasis added]. The admissibility of this “basis of opinion” evidence depends on a
7 distinction that *Sanchez* made between whether an expert is relating either the basis of his or her
8 general knowledge or “case-specific” statements. The *Sanchez* decision distinguishes between
9 “allowing an expert to describe the type or source of the matter relied upon as opposed to
10 presenting, as fact, case-specific hearsay that does not otherwise fall under a statutory
11 exception.” (*People v. Sanchez*, supra, at 686.) The former is still proper for the jury to consider.

12 *Sanchez* did not affect an expert’s ability to convey their general knowledge to the
13 jury. An expert’s general knowledge is that which he or she has “acquired through their training
14 and experience.” (Evidence Code § 801(a).) “Knowledge in a specialized area is what
15 differentiates the expert from a lay witness, and makes his testimony uniquely valuable to the
16 jury in explaining matters ‘beyond the common experience of an ordinary juror.’” (*Sanchez*,
17 supra, at 676.) For that reason, an expert may readily testify as to “background information
18 regarding his knowledge and expertise and premises generally accepted in his field.” (*Id.* at
19 686.) Such testimony, though offered for its truth, would not be excluded as hearsay. “[O]ur
20 decision does not affect the traditional latitude granted to experts to describe background
21 information and knowledge in the area of his expertise.” (*Id.* at 685.)

22 The *Sanchez* decision also did “not call into question the propriety of an expert’s
23 testimony concerning background information regarding his knowledge and expertise and
24 premises generally accepted in his field.” (*Id.*) In fact, *Sanchez* provided that “any expert may
25 still rely on hearsay in forming an opinion, **and may tell the jury in general terms that he did**
26 **so.**” (*Ibid.* Bold added. Italics in original.) Therefore, it is still proper for an expert to explain in
27 “*general terms*” the basis of his or her opinion and that they considered various police reports,
28 field interviews, interviews with other group members, or other otherwise inadmissible hearsay

1 in forming their opinions. The problem or error that *Sanchez* warns of would only arise if that
2 expert attempted to relate the *content* of that information during direct examination.

3 *Sanchez* reaffirmed the rationale for allowing the introduction of this general
4 information stating that “because the jury must independently evaluate the probative value of an
5 expert's testimony, Evidence Code section 802 properly allows an expert to relate generally the
6 kind and source of the ‘matter’ upon which his opinion rests.” (*Id.* at 686; [See *People v. Garton*
7 (2018) 4 Cal. 5th 485, holding that a medical examiner can *review and rely* on an autopsy report
8 prepared by another examiner, and that other examiner’s notes, in forming their own
9 independent opinions which were relayed to the jury. It is proper for an expert to rely on hearsay
10 “in forming an opinion and [they] may tell the jury in general terms that [they] did so” so long
11 as no specific facts are relayed to the jury from that report; *But See People v. Perez* (2018) 4
12 Cal. 5th 421, finding a *Sanchez* violation where medical examiner *relayed* case specific facts
13 from another examiner’s report detailing specifics of the victim’s injuries and the depth of knife
14 wound that caused those injuries to the jury as fact.])

15 *Sanchez* lastly clarified that case-specific facts may also be related to the jury *if*
16 they are independently proven by competent evidence or are covered by a hearsay exception.
17 (*Id.* at 676.) While an expert cannot supply case-specific facts about which he has no personal
18 knowledge, if such facts have been established by calling witnesses that do have personal
19 knowledge, then the expert may testify about more generalized information to help jurors
20 understand the significance of these facts. *Sanchez* confirmed that in that scenario “an expert is
21 also allowed to give an opinion about what those facts may mean.” (*Id.*)

22 In sum, under the guidelines set out by the *Sanchez* decision, an expert may still
23 rely on hearsay in coming to his or her opinion, *and* inform the jury generally as to either the
24 type or source of the matters considered. So long as the bases for the expert’s opinion have been
25 independently established by competent evidence or a hearsay exception applies, even case-
26 specific facts may be related to the jury by the expert in giving their testimony.

27

28

1 In this case, Dr. Perlmutter was asked to give her opinion on symbols,
2 photographs, and terms derived directly from video evidence collected on January 9, 2021, or
3 from social media evidence returned from search warrants. This evidence was both competent
4 and admitted independently through law enforcement witnesses after the material was returned
5 via a valid search warrant with certificates of authenticity. (Evid. Code, §§ 1560, 1561.) (Exhibit
6 15.) Since each and every law enforcement witness had been a sworn peace officer for more
7 than five years at the time of the Grand Jury testimony, they were permitted testify to the
8 foundation of documents, exhibits, records, or other items of physical evidence based upon
9 hearsay. (Pen. Code, § 939.6(c).)

10 III.

11 THE SOCIAL MEDIA EVIDENCE WAS PROPERLY INTRODUCED

12 Defendant Lightfoot asserts, with Defendants White and Cannon joining, that the
13 social media evidence presented by the Detective and District Attorney Investigators was
14 improper character evidence. The social media evidence they attack was properly offered as
15 circumstantial evidence of Conspiracy in Count 1, as well as Aiding and Abetting the numerous
16 charged Assaults. However, even if the social media evidence were considered “character”
17 evidence, it remains proper and admissible under the exceptions laid out in Evidence Code
18 section 1101, subdivision (b), and its legal progeny.

19 A. Social Media Evidence was Proper to Prove Group Association, and Relevant 20 Circumstantial Evidence to Prove Conspiracy and Aiding and Abetting

21 Evidence of group association affiliation may be admissible as circumstantial
22 evidence of the intent required to prove aiding and abetting. (*People v. Burnell* (2005) 132
23 Cal.App.4th 938, 947; *People v. Salgado* (2001) 88 Cal.App.4th 5, 16 [finding evidence of the
24 gang nature of the crime sufficient to support the jury’s finding that defendant aided and abetted,
25 rather than mere presence]; *In re Jose T.* (1991) 230 Cal.App.3d 1455, 1460-61; see also *People*
26 *v. Miranda* (2011) 192 Cal.App.4th 398, 408-10.) There are two types of aider and abettor
27 liability. (*People v. McCoy* (2001) 25 Cal.4th 1111, 1117.) An aider and abettor is liable not
28 only for the originally intended crime (i.e. “target crime”), but also “for any other offense that

1 was a 'natural and probable consequence' of the crime aided and abetted." (*People v. Prettyman*
2 (1996) 14 Cal.4th 248, 260 (*Prettyman*).)

3 The intent necessary to support a conviction under a "simple" aiding and abetting
4 theory was laid out in *People v. Beeman* (1984) 35 Cal.3d 547.

5 In *People v. Beeman* [citation], we discussed the mental state
6 necessary for liability as an aider and abettor. To prove that a
7 defendant is an accomplice, we said, the prosecution must show that
8 the defendant acted "with knowledge of the criminal purpose of the
9 perpetrator *and* with an intent or purpose either of committing, or of
10 encouraging or facilitating commission of, the offense." (*Id.* at p.
11 560, italics in original.) When the offense charged is a specific intent
12 crime, the accomplice must "share the specific intent of the
13 perpetrator"; this occurs when the accomplice "knows the full extent
14 of the perpetrator's criminal purpose and gives aid or encouragement
15 with the intent or purpose of facilitating the perpetrator's
16 commission of the crime." (*Ibid.*) Thus, we held, an aider and abettor
17 is a person who, "acting with (1) knowledge of the unlawful purpose
18 of the perpetrator; and (2) the intent or purpose of committing,
19 encouraging, or facilitating the commission of the offense, (3) by act
20 or advice aids, promotes, encourages or instigates, the commission
21 of the crime." (*Id.* at p. 561.)

22 (*People v. Prettyman* (1996) 14 Cal.4th 248, 259.)

23 Whether a person has aided and abetted in the commission of a crime is a question
24 of fact for the jury. (*People v. Olguin* (1994) 31 Cal.App.4th 1355, 1376; *People v. Godinez*
25 (1992) 2 Cal.App.4th 492, 499; *In re Lynette G.* (1976) 54 Cal.App.3d 1087, 1094.) Some of
26 the factors to be considered in determining if a defendant is an aider and abettor, and therefore
27 equally culpable for the charged offenses, are: (1) presence at the scene of the crime; (2)
28 companionship; (3) conduct before and after the offense; and (4) flight after the offense. (*People*
v. Mitchell (1986) 183 Cal.App.3d 325, 330; *In re Lynette G., supra*, at 1094-95.) Resolution of
these fact issues " "will not be set aside [on appeal] unless the record clearly shows that upon
no hypothesis whatsoever is there sufficient substantial evidence to support it." ' [Citation.]" (*In*
re Lynette G., supra at 1094.)

.....

1 Group association and group membership can be circumstantial evidence of a
2 conspiracy. (*People v. Burnell* (2005) 132 Cal.App.4th 938, 947; *People v. Superior Court*
3 (*Quinteros*) (1993) 13 Cal.App.4th 12, 20; *People v. Frausto* (1982) 135 Cal.App.3d 129, 140-
4 41.) For example, the court in *In re Darrell T.* (1979) 90 Cal.App.3d 325 cited the following
5 factors that it considered in support of the true finding that the minor had committed murder
6 under a conspiracy theory:

7 [D]efendant was present at one or more discussions concerning
8 Reggie T.'s fight with Daryl Wade and the plan to get even.
9 Defendant traveled to a rival gang's . . . area in a caravan of three
10 cars with nine or ten other youths. Before the shooting occurred,
11 defendant, along with Michael P. and Nicardo P., had gotten out of
12 the car. Michael P., a member of the same Crip faction as defendant,
13 was identified . . . as one of the boys standing with [the shooter]
14 when the victim was killed. Michael P., Nicardo P., and defendant
15 ran back to the car together. After the car failed to start, defendant
16 and Nicardo P. ran from the scene on foot. The evidence, although
17 circumstantial is clearly sufficient to support a conspiracy finding.
18 (*Id.* at p. 334.)

19 A count of conspiracy does not have to be charged for the prosecution to present
20 evidence of conspiracy to prove liability for acts of a co-conspirator. (*People v. Lopez* (1963) 60
21 Cal.2d 223, 250.) Conspiracy is both a theory of criminal liability and a substantive offense and
22 conspiracy need not be pled when used as a theory of liability to establish guilt for another
23 substantive offense. (*Id.*; *People v. Remiro* (1979) 89 Cal.App.3d 809, 842.) Although
24 conspiracy is not charged, a case may be tried on a conspiracy theory. Indeed, as the court in
25 *Remiro*, stated:

26 Failure to charge conspiracy as a separate offense does not preclude
27 the People from proving that those substantive offenses which are
28 charged were committed in furtherance of a criminal conspiracy;
nor, it follows, does it preclude the giving of jury instructions based
on a conspiracy theory.

(*People v. Remiro, supra*, 89 Cal.App.3d at 842, citations omitted.)

1 Although association with the perpetrator of a crime does not prove criminal
2 conspiracy, it is a starting place for examination. (*In re Nathaniel C.*, *supra*, 228 Cal.App.3d at
3 p. 999; *People v. Manson* (1976) 61 Cal.App.3d 102, 126; *People v. Lewis* (1963) 222
4 Cal.App.2d 136, 144.) “Where there is some evidence of participation or interest in the
5 commission of the offense, it, when taken with evidence of association, may support an
6 inference of a conspiracy to commit the offense.” (*People v. Hardeman* (1966) 244 Cal.App.2d
7 1, 41.)

8 Although applied frequently in gang cases, the fundamental concept is the same in
9 the instant case: Using proof of group association and affiliation is clearly relevant and
10 admissible. In this case, through Detective Clark and the District Attorney Investigators, the
11 People presented the Grand Jurors with some of the social media evidence where each and every
12 Defendant revealed their affiliation with Antifa and the ideology associated with Antifa.

13 *Even if* the People did not charge Conspiracy in this case, evidence of Defendants’
14 group associations with Antifa would be admissible. The People *did* charge Conspiracy, and
15 used the association evidence to prove, directly and circumstantially, that Defendants, all of
16 whom affiliated with the ideology of Antifa, intended to agree, and did agree, to commit Count
17 1, Conspiracy to Riot. It is a charged offense in this case, making evidence of Defendant’s group
18 affiliation preeminently relevant.

19 This evidence was also relevant to proving each and every substantive count under
20 an aiding and abetting theory, for the same reasons articulated above.

21 **B. The Social Media Evidence was also admissible pursuant to 1101(b)**

22 1. Similar acts evidence admissible under 1101(b).

23 “The rules governing the admissibility of evidence under Evidence Code section
24 1101(b) are well settled. Evidence of defendant’s commission of other crimes, civil wrongs or
25 bad acts is not admissible to show bad character or predisposition to criminality, but may be
26 admitted to prove some material fact at issue such as motive, opportunity, intent, preparation,
27 plan, knowledge, identity, absence of mistake or accident. [Citations.]” (*People v. Cage* (2015)
28 62 Cal.4th 256, 273; see also *People v. Chhoun* (2021) 11 Cal.5th 1, 25.) “The trial court has the

1 discretion to admit evidence of crimes committed by a defendant other than the one for which he
2 is charged, if such evidence is relevant to prove some fact at issue, and if the probative value of
3 the evidence outweighs its prejudicial effect. [Citation.]” (*People v. Hawkins* (1995) 10 Cal.4th
4 920, 951, disapproved on another ground in *People v. Lasko* (2000) 23 Cal.4th 101, 110; see
5 also *People v. Spector* (2011) 194 Cal.App.4th 1335, 1372.)

6 Evidence of an uncharged act is admissible “when relevant to prove
7 some fact (such as motive, opportunity, intent, preparation, plan,
8 knowledge, identity, absence of mistake or accident ...)” (Evid.
9 Code, § 1101, subd. (b).) “The categories listed in section 1101,
10 subdivision (b), are examples of facts that legitimately may be
11 proved by other-crimes evidence, but ... the list is not exclusive.
12 [Citations.]” (*People v. Catlin* (2001) 26 Cal.4th 81, 146.)

13 For reasons of policy, the general rule has evolved that evidence that
14 the defendant has committed other crimes is inadmissible if offered
15 solely to prove criminal disposition on his part. (Evid. Code, § 1101,
16 subd. (a).) However, the exceptions (Evid. Code, § 1101, subd. (b))
17 have become so numerous that ... the suggestion has been made that
18 the true rule could be more realistically stated in an affirmative form:
19 “That evidence of other crimes is admissible whenever it is relevant
20 to a material issue, and that it should be excluded *only* where its sole
21 purpose and effect is to show the defendant’s bad moral character
22 (disposition to commit crime).” [Citation.]

23 (*People v. Haslouer* (1978) 79 Cal.App.3d 818, 824-825, italics added.)

24 Evidence Code section 1101, subdivision (b), only bars evidence of other
25 uncharged acts “when relevant to prove” a person’s “disposition to commit such ... act[s].” It
26 does not bar such evidence when it is “relevant to prove some [other] fact,” such as “identity” or
27 “intent,” without reliance on disposition as “any link in the chain of logic.” (*People v. Thompson*
28 (1980) 27 Cal.3d 303, 317 (*Thompson*), disapproved on other grounds in *People v. Rowland*
(1992) 4 Cal.4th 238, 260 [defendant’s not guilty plea puts all elements of crime at issue].)

.....

.....

.....

1 Under the Evidence Code, the truth of the prior uncharged act and
2 defendant's connection to it are preliminary factual issues which
3 must be decided before the prior misconduct can be deemed
4 admissible; if the prior and defendant's connection to it are not
5 established by a preponderance of the evidence, the prior is
6 irrelevant to prove the Evidence Code section 1101(b) fact for which
7 it is being offered. (*People v. Simon* (1986) 184 Cal.App.3d 125,
8 129-130 ...; see Evid. Code, § 403, subd. (a).)

9 (*People v. Garelick* (2008) 161 Cal.App.4th 1107, 1115; cited with approval in *People v. Lucas*
10 (2014) 60 Cal.4th 153, 218.)

11 Appellate courts "review a trial court's ruling [admitting evidence] under
12 Evidence Code section 1101 for abuse of discretion." (*People v. Gray* (2005) 37 Cal.4th 168,
13 202; see also *People v. Cage, supra*, 62 Cal.4th at p. 274.)

14 2. Three factors determine admissibility of 1101(b) evidence.

15 There are three factors a court must consider in determining the admissibility of
16 evidence otherwise meeting the basic Evidence Code section 1101, subdivision (b) criteria. "As
17 with other types of circumstantial evidence, its admissibility depends upon three principal
18 factors: (1) the *materiality* of the fact sought to be proved or disproved; (2) the *tendency* of the
19 uncharged crime to prove or disprove the material fact; and (3) the existence of any *rule* or
20 *policy* requiring the exclusion of relevant evidence." (*People v. Thompson* (1980) 27 Cal.3d 303,
21 315 (*Thompson*), italics in original.)

22 "In order to satisfy the requirement of *materiality*, the fact sought to be proved
23 may be either an ultimate fact in the proceeding or an intermediate fact 'from which such
24 ultimate fact may be presumed or inferred.'..." (*Thompson, supra*, 27 Cal.3d at p. 315, original
25 italics; see also *People v. Hendrix* (2013) 214 Cal.App.4th 216, 239.) The materiality factor is
26 generally met because a defendant's plea of not guilty placed the intent element of the offense at
27 issue for the purpose of Evidence Code section 1101, subdivision (b). (*People v. Daniels* (1991)
28 52 Cal.3d 815, 858; see also *People v. Ewoldt* (1994) 7 Cal.4th 380, 400, fn. 4.) "A defendant's
plea of not guilty puts the elements of the crime in issue for purposes of Evidence Code section
1101, 'unless the defendant has taken some action to narrow the prosecution's burden of proof,'

1 [Citations.]]” (*People v. Myers* (2014) 227 Cal.App.4th 1219, 1225.) In addition, “[s]eldom will
2 evidence of a defendant’s prior criminal conduct be ruled inadmissible when it is the primary
3 basis for establishing a crucial element of the charged offense.” (*People v. Garrett* (1994) 30
4 Cal.App.4th 962, 967.)

5 Whether evidence tends to prove or disprove a fact governs its *relevancy* within
6 the meaning of Evidence Code section 210. (*Thompson, supra*, 27 Cal.3d at p. 315, fn. 15; see
7 also, Evid. Code §§ 350-351.) For example, “[e]vidence of uncharged crimes is admissible to
8 prove identity, common design or plan, or intent only if the charged and uncharged crimes are
9 sufficiently similar to support a rational inference of identity, common design or plan, or intent,”
10 (*People v. Kipp* (1998) 18 Cal.4th 349, 369.)

11 Uncharged acts evidence which is admissible under Evidence Code section 1101,
12 subdivision (b), may still be inadmissible under another *rule or policy*. The most commonly
13 cited rule or policy is that contained in Evidence Code section 352. “Under Evidence Code
14 section 352, the probative value of a defendant’s prior acts must not be substantially outweighed
15 by the probability that its admission would create substantial danger of undue prejudice, of
16 confusing the issues, or of misleading the jury. (*People v. Ewoldt, supra*, [7 Cal.4th] at p. 404;
17 Evid. Code, § 352.)” (*People v. Davis* (2009) 46 Cal.4th 539, 602; see also *People v. Rogers*
18 (2013) 57 Cal.4th 296, 326; *People v. Tran* (2011) 51 Cal.4th 1040, 1047.) Nevertheless:

19 There is also no rule or policy requiring exclusion. As the trial court
20 recognized when it concluded that the probative value of the
21 evidence outweighed its prejudicial effect, evidence of other crimes
22 is inherently prejudicial. [Citation.] But this circumstance means the
23 court must exercise its discretion, not that it must always exclude the
evidence.

24 (*People v. Steele* (2002) 27 Cal.4th 1230, 1245.)

25 3. Admissibility not barred under 352.

26 When uncharged crime evidence otherwise meets the criteria for admission under
27 Evidence Code section 1101, subdivision (b), the court is also required to consider the impact of
28 Evidence Code section 352 (§ 352).

1 But Evidence Code section 352 requires the exclusion of evidence
2 only when its probative value is substantially outweighed by its
3 prejudicial effect. “Evidence is substantially more prejudicial than
4 probative [citation] [only] if, broadly stated, it poses an intolerable
5 ‘risk to the fairness of the proceedings or the reliability of the
6 outcome’ [citation].” (*People v. Waidla* (2000) 22 Cal.4th 690, 724.)

7 (*People v. Tran* (2011) 51 Cal.4th 1040, 1047.) The People address Evidence Code section 352
8 arguments below in section V.

9 4. Scope of admissibility under 1101(b) is broad.

10 The scope of what qualifies as an admissible “bad act” under Evidence Code
11 section 1101 is broad. “A prior act need not be a crime to be admissible under Evidence Code
12 section 1101.” (*People v. Wills-Watkins* (1979) 99 Cal.App.3d 451, 456, fn. 1.)

13 Cases sometimes describe Evidence Code section 1101(b) evidence
14 as “prior offenses” or “prior bad acts.” Both shorthand formulations
15 are imprecise. Evidence Code section 1101(b) authorizes the
16 admission of “a crime, civil wrong, *or other act*” to prove
17 something other than the defendant’s character. (Italics added.) The
18 conduct admitted under Evidence Code section 1101(b) need not
19 have been prosecuted as a crime, nor is a conviction required. (See,
20 e.g., *People v. Garcia* (1995) 41 Cal.App.4th 1832, 1849,
disapproved on another ground in *People v. Sanchez* (2001) 24
Cal.4th 983, 991, fn. 3.) The conduct may also have occurred after
the charged events, so long as the other requirements for
admissibility are met. (See *People v. Balcom* (1994) 7 Cal.4th 414,
425.)

21 (*People v. Leon* (2015) 61 Cal.4th 569, 597, italics in original; see, e.g., *People v. Ranlet* (2016)
22 1 Cal.App.5th 363, 375-376 [online chat room conversations evidencing defendant’s intent to
23 molest children].) But evidence that is indivisible part of or related directly to the offense itself
24 should not be treated as “bad act” under Evidence Code section 1101. (*People v. Smith* (2015)
25 61 Cal.4th 18, 48; *People v. Nicolas* (2017) 8 Cal.App.5th 1165, 1178.) Finally, even prior
26 criminal acts that a magistrate at a preliminary hearing found lacked sufficient evidentiary
27 support to go to trial can be admitted under Evidence Code section 1101. (*People v. Leon, supra*,
28 61 Cal.4th at pp. 596-597.)

1 The People are not asserting, and did not assert to the Grand Jury, that Defendants'
2 Antifa affiliation was criminal, or that Defendant's affiliation amounted to "bad acts." *Even if*
3 this Court entertains that the social media was offered as evidence of prior bad acts, they were
4 admissible.

5 The People offered the Grand Jury social media evidence from Defendants'
6 accounts and devices to prove multiple aspects related to Count 1 and other crimes where Grand
7 Jurors were instructed on the law of Aiding and Abetting. This evidence proved motive,
8 preparation, and planning on the part of Defendants. The social media evidence showed the
9 Grand Jurors Antifa's motives. The social media evidence showed planning and coordination
10 around Antifa activity between similar thinking, similar acting individuals. The evidence is both
11 *material and relevant*.

12 The Grand Jury's receipt of social media evidence was proper on multiple fronts
13 and admissible under multiple theories.

14 **IV.**

15 **THE DETECTIVE AND INVESTIGATORS PROVIDED PROPER LAY OPINIONS**
16 **ON EVIDENCE WITHIN THEIR KNOWLEDGE**

17 It was permissible for Detective Clark and District Attorney Investigators to
18 provide opinions on the symbols and contents of the social media returns as a lay witness
19 because they their opinions were rationally based on their law enforcement training and
20 perception of the content within the returns. Further, many of the symbols and phrases to which
21 the witnesses testified were obviously Antifa affiliated on their face. Additionally, the opinion
22 expressed by Detective Clark on "group attacks" was a proper lay opinion.

23 "A lay witness may testify to an opinion if it is rationally based on the witness's
24 perception and if it is helpful to a clear understanding of his testimony. (Evid. Code, § 800.)"
25 (*People v. Farnam* (2002) 28 Cal.4th 107, 153; see also *People v. Becerrada* (2017) 2 Cal.5th
26 1009, 1032; *People v. Virgil* (2011) 51 Cal.4th 1210, 1254.)"

27

28

1 Lay opinion is ... admissible, but it plays a very different role than
2 expert opinion and is subject to different rules of admissibility.
3 “Lay opinion testimony is admissible where no particular scientific
4 knowledge is required, or as “a matter of practical necessity when
5 the matters ... observed are too complex or too subtle to enable [the
6 witness] accurately to convey them to court or jury in any other
7 manner.” [Citations.]’ [Citation.]” [Citation.] It must be rationally
8 based on the witness’s perception and helpful to a clear
9 understanding of the witness’s testimony. [Citation.] For example,
10 testimony that another person was intoxicated (*People v. Garcia*
11 (1972) 27 Cal.App.3d 639, 643) or angry (*People v. Deacon* (1953)
12 117 Cal.App.2d 206, 210) or driving a motor vehicle at an excessive
13 speed (*Jordan v. Great Western Motorways* (1931) 213 Cal. 606,
612) conveys information to the jury more conveniently and more
accurately than would a detailed recital of the underlying facts. But
unlike an expert opinion, the subject matter of lay opinion is “one of
such common knowledge that men of ordinary education could reach
a conclusion as intelligently as the witness,” and requires no
specialized background. [Citation.]

14 (*People v. Chapple* (2006) 138 Cal.App.4th 540, 547; see also *People v. Maglaya* (2003) 112
15 Cal.App.4th 1604, 1609 [permitting police officers to testify regarding the similarities of
16 shoeprints or footprints].) “By contrast, when a lay witness offers an opinion that goes beyond
17 the facts the witness personally observed, it is held inadmissible.” (*People v. McAlpin* (1991) 53
18 Cal.3d 1289, 1308; see also *People v. Dalton* (2019) 7 Cal.5th 166, 231.)

19 Although, in general, “a lay witness may not give an opinion about another’s state
20 of mind[,] ... a witness may testify about objective behavior and describe behavior as being
21 consistent with a state of mind.” (*People v. Chatman* (2006) 38 Cal.4th 344, 397 [witness
22 testified defendant seemed to enjoy kicking the victim]; see also *People v. Sanchez* (2016) 63
23 Cal.4th 411, 456 [witness testimony that defendant’s gesture indicated he wanted to change clip
24 in empty gun was admissible lay opinion, not inadmissible speculation]; *People v. Weaver*
25 (2012) 53 Cal.4th 1056, 1086 [witness testified defendant was more hostile and angry towards
26 one of the victims].)

27

28

1 **A. The symbols and contents from the Social Media Evidence were proper lay**
2 **opinions presented by Detective Clark and the District Attorney Investigators**

3 It was permissible for Detective Clark and District Attorney Investigators to
4 provide opinions on the symbols and contents of the social media returns as lay witnesses
5 because they their opinions were rationally based on their law enforcement training and
6 perception of the content within the returns. Further, many of the symbols and phrases to which
7 the witnesses testified were obviously Antifa affiliated, especially with the framework on Antifa
8 ideology, symbols, and tactics received from Dr. Perlmutter.

9 **B. Detective Clark's Lay Opinion Evidence was Proper**

10 Defense contends that Detective Clark provided an improper opinion of Defendant
11 White's mental state. In making the argument, defense relies on the following line of
12 questioning:

13 Just after showing Detective Clark the video of the attack on juvenile S.G.in
14 Incident 1, Detective Clark was questioned as follows:

15 Q. I have a series of what will sound like silly questions. If you are in a fight and
16 you are attacking someone, is it easier to attack someone with more than one person?

17 A. Yes, absolutely.

18 Q. If—what if it's more than one person but the additional people are standing
19 around, does that assist in your assault in any way?

20 A. It can, yeah.

21 Q. Can you explain that?

22 A. So depending on the number of people and what it is they're doing or not
23 doing, being surrounded in a group, you can compare it potentially as something like maybe a
24 school yard fight where a group of people ring around two individuals fighting, preventing them
25 from leaving or being see by other people who could render aid.

26 Q. Now, let's expand the hypothetical a little bit. What if all of those people that
27 are surrounding but are not doing anything are all wearing the same type of clothes like a
28 uniform. Are you more or less likely to defend yourself?

1 A. I would definitely be more concerned about my safety because it would seem
2 that they all are sharing the same mindset.” (R.T. 1749:22-28; 1750: 1-18.)

3 Defense alleges that Detective Clark’s answers to the above questions were that of
4 an unqualified expert telling the Grand Jurors Defendant White had the requisite mens rea of an
5 aider and abettor to the assault on R.L. Despite Defendant White’s assertion, Detective Clark
6 did *not* testify that White “shared the same mindset of the perpetrators during the assault of R.L.
7 based on the fact that he was standing around the assault, wearing the same clothes, and not
8 doing anything.” (White Motion 12:17-22.) In fact, the line of questioning set out above was put
9 forth to Detective Clark just after questioning on an incident unrelated to Defendant White.

10 The lay opinion expressed by Detective Clark was a proper hypothetical which did
11 not require any scientific knowledge. While Detective Clark described that a group wearing the
12 same uniform might make the person surrounded less likely to defend themselves because you
13 could assume the persons in uniform shared the same mindset, this was not the equivalent of
14 stating that Defendant intended to and did in fact aid and abet in the assault on R.L. The lay
15 opinion was actually one that the jurors themselves could make based on common life
16 experience.

17 Ultimately, the Grand Jurors were instructed pursuant to CALCRIM 333 about
18 witnesses not testifying as experts. The Grand Jurors were instructed that they may, but were
19 not required, to accept those opinions as true or correct. Further they were instructed that they
20 could give the opinions whatever weight they thought appropriate after considering the matters
21 on which the opinion was based, reasons given for the opinion, and any fact or information on
22 which the witness relied to form the opinion. The Grand Jurors were told they could disregard
23 all or any part of an opinion found unbelievable, unreasonable, or unsupported by the evidence.
24 (CALCRIM 333.)

25 Here, Incident 5 was captured on video and the Grand Jurors had the benefit of
26 hearing directly from victim R.L and witness J.C. The Grand Jurors heard proper lay opinions
27 from Detective Clark on her perceptions after watching hours of video in this case and based on
28 her training and experience in law enforcement. Additionally, the Grand Jurors were also

1 capable of judging for themselves whether or not to accept Detective Clark’s opinion testimony
2 based on the evidence they were able to watch with their own eyes.

3 **V.**

4 **THE TESTIMONY OF DOCTOR PERLMUTTER, DETECTIVE CLARK,**
5 **AND DISTRICT ATTORNEY INVESTIGATORS WAS RELEVANT**
6 **AND NOT UNDULY PREJUDICIAL**

7 Although Dr. Perlmutter’s expert testimony evidence overwhelmingly meets the
8 relevance threshold for admissibility, Defendants still raise the issue of whether it is unduly
9 prejudicial under Evidence Code section 352. Under this same umbrella, Defendants claim that
10 Detective Clark’s testimony, and the testimony of the District Attorney Investigators who
11 reviewed the Defendants’ social media accounts, is unduly prejudicial. It is not.

12 As the Court well knows, section 352 vests trial courts with discretion to “exclude
13 evidence if its probative value is substantially outweighed by the probability that its admission
14 will . . . create substantial danger of undue prejudice, of confusing the issues, or of misleading
15 the jury.” (Evid. Code, § 352.) When a reviewing court conducts a section 352 analysis of
16 admitted evidence, it should remember “the plain language of section 352 and the sometimes
17 overlooked words, ‘substantially’ and ‘substantial danger.’” (*People v. Holford* (2012) 203
18 Cal.App.4th 155, 167.)

19 Evidence is inadmissible under section 352 only if its probative value is
20 substantially outweighed by the probability of a substantial danger of undue prejudice. (*Ibid.*:
21 *see also People v. Tran, supra*, 1047 [“Evidence Code section 352 requires the exclusion of
22 evidence only when its probative value is substantially outweighed by its prejudicial effect,”
23 original italics].) The term “probative value” is interchangeable with “relevance” under
24 Evidence Code section 210. (*People v. Hill* (1992) 3 Cal.App.4th 16, 29.) So, by definition,
25 relevant evidence has probative value. (*Ibid.*)

26 The balance of Evidence Code section 352 weighs heavily in favor of
27 admissibility by allowing exclusion only when the unfair prejudice substantially outweighs
28 probative value. (Evid. Code § 352.) The prejudice referred to in Evidence Code section 352 is

1 that which “uniquely tends to evoke an emotional bias against the defendant as an individual”
2 while having little bearing on disputed issues. (*People v. Karis* (1988) 46 Cal.3d 612, 638.)
3 Section 352 is not directed at “the prejudice or damage to a defense that naturally flows from
4 relevant, highly probative evidence, because “[a]ll evidence which tends to prove guilt is
5 prejudicial or damaging to the defendant’s case. The stronger the evidence, the more it is
6 ‘prejudicial.’ ” (*Ibid.*) The meaning of “prejudicial” is not synonymous with “damaging.”
7 (*Ibid.*)

8 The principal factor establishing the probative value of the evidence is its tendency
9 to demonstrate the existence of the material fact for which it is offered. (*People v. Ewoldt*,
10 (1994) 7 Cal.4th 380, 404.) Further, the prejudice Section 352 is designed to avoid is “not the
11 prejudice or damage to a defense that naturally flows from relevant, highly probative evidence . .
12 . rather the statute uses the word in its etymological sense of ‘prejudicing’ a person or cause on
13 the basis of extraneous factors.” (*People v. Zapien* (1993) 4 Cal.4th 929, 958.) “Prejudicial”
14 does not mean damaging; it means evoking emotional bias, or a juror misusing evidence.
15 (*People v. Yu* (1983) 143 Cal.App.3d 358, 377.) Painting a defendant accurately and faithfully
16 is not in and of itself, unfair. (See also, *People v. Poplar* (1999) 70 Cal.App.4th 1129.)

17 As this Court is aware, a criminal case must always be fair, but not fair in the
18 sense that Defendants have an equal opportunity to win. *All* evidence of guilt is prejudicial,
19 otherwise it would not be offered to prove the case. The truth is that Defendants formed an
20 agreement and committed acts of violence within the realm of Antifa-affiliated beliefs and
21 according to Antifa-affiliated tactics and rules. Count 1, Conspiracy, makes this evidence
22 extremely probative, and the weight of that probative value counts against any prejudicial effect
23 that may be roused in a jury who reviews the evidence. It cannot be unduly prejudicial for
24 experts to explain the world of Antifa and what role Antifa ideology played in the events of
25 January 9, 2021.

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OCT 13 2023

FACTUAL BASIS CASE NUMBER SCD274477 / AEX741

Count 1: On or about January 9, 2021, I was affiliated with Antifa and I unlawfully conspired Alexander Akridgejacobs, Jesse Merel Cannon, Brian Cortez Lightfoot Jr., Christian Martinez, Luis Francisco Mora, Samuel Howard Ogden, Bryan Rivera, Jeremy Jonathan White, Erich Louis Yach, and others whose identity is unknown, all of whom are affiliated with Antifa, to commit the crime of Penal Code Section 404 Riot, in violation of PENAL CODE SECTION 182(a)(1).

- **OVERT ACT NO. (37):** On or about January 9, 2021, I slapped victim J.C.'s phone out of his hand.

Count 27: On or about January 9, 2021, I, together with Joseph Austin Gaskins, and Christian Martinez did unlawfully commit an assault upon unidentified victim seven by means of force likely to produce great bodily injury, in violation of PENAL CODE SECTION 245(a)(4).

Aggravating Factors as to Count 27:

- Rule 4.421(a)(7): I have been convicted of other crimes for which consecutive sentences could have been imposed but for which concurrent sentences are being imposed.

Date: 10/13/23



Defendant

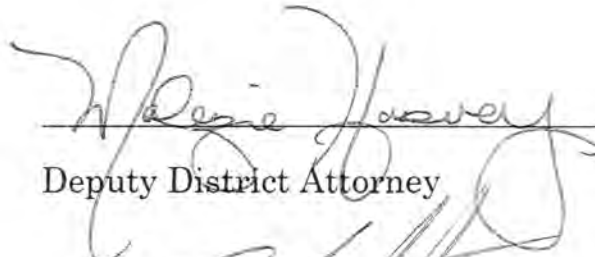
Date: 10/13/23



Defense Counsel

People v. Faraz Martin Talab Factual Basis
SCD274477/AEX741

Date: 10/13/23



Deputy District Attorney

Date: 10/13/23



Judge of the Superior Court



Exhibit E

In the next moment, *at the same time Defendant White turned to face Defendants Cannon and Yach, R.L. rolled his bike approximately three paces forward closer to the police line.* Simultaneously, Defendant White gestured towards R.L. while facing Defendants Cannon and Yach. When White *made this gesture, he pointed not to where R.L. was in that exact moment, but where R.L. had been just a few seconds prior.* Defendant White can be seen quickly pointing where R.L. really is when he realized R.L. moved. (*See image, attached herein as “Exhibit F.”*)



Exhibit F

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15 The *vast* majority of the Antifa group was facing away from Defendant White
16 towards the police line, or was otherwise moving about. There are no other individuals who do
17 so much as flinch in reaction to Defendant White's gesturing, except those who immediately
18 attacked R.L.. Black Bloc members including Defendants Cannon and Yach, in direct response
19 to Defendant White's gesturing towards R.L., immediately acted, attacking R.L..

20 Defendant White's "analysis of the audio and video combined with the use of
21 landmarks within the People's evidence" reached a demonstrably incorrect conclusion. (White
22 Motion 5:19-23.) Defendant White is not pointing in an alley, and was not looking down any
23 such alley while gesturing at R.L..

24 Defendant White's recitation of the facts provided on this point should be rejected,
25 not only because this Court may not disturb the Grand Jury's findings on issues of fact, but
26 because it is contains an incomplete analysis of the record and evidence presented at the Grand
27 Jury. *The reviewing court may not reweigh the evidence or substitute its judgment as to the*
28 *weight of the evidence or credibility of witnesses for that of the grand jury. Nor does the*

1 *reviewing court resolve factual contentions.* (*People v. Pic'l* (1982) 31 Cal.3d 731, 737;
2 *Jackson v. Superior Court* (1965) 62 Cal.2d 521, 530; *Lewis v. Superior Court* (1990) 217
3 Cal.App.3d 379, 384.)

4 Additionally, Defendant White did not merely stand at a distance as R.L. was
5 brutally assaulted with fists, feet, a taser and tear gas. Defendant White actually *joined* the group
6 who chased R.L. down the street, breaking into a labored jog at one point, continuing to follow
7 R.L. around the corner once he reached the end of the block. At this point in the day, Defendant
8 White knew the mob's purpose, as he watched R.L. be attacked. His choice to join the mob, then
9 run with the mob, towards a fleeing R.L. who was still being assaulted.

10 Defendant White knew that by pointing at R.L., clearly filming the activities of the
11 armed, Black Bloc, Antifa-affiliated group, Defendant White's armed, Black Bloc, Antifa-
12 affiliated comrades would take action. Defendant White knew this because he actively
13 participated in Incident 3, which occurred just twenty-five minutes prior, where another innocent
14 victim was attacked for filming the Antifa members. (Exhibit 20-Timeline of January 9, 2021.)
15 Based on Incident 3, Defendant White clearly demonstrated displeasure with non-Antifa
16 affiliated persons filming the Black Bloc, as he spent the majority of Incident 3 pushing J.C.
17 around and blocking J.C.'s camera up to the point when J.C. was attacked. Defendant White
18 knew just how violent defendants were as he had a front row seat to Incident 4, which occurred
19 just twenty minutes prior to the attack on R.L..

20 Defendant White knew of his Co-Defendants unlawful purpose and specifically
21 intended to facilitate, promote, encourage, instigate the perpetrators commission of crime.
22 Defendant White pointed, marking R.L. as an intended victim. The Defendants acted. This
23 Court must find that Count 22 was proper.

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1 **B. Allegations Attendant to Counts 19 and 20: The Grand Jury Received**
2 **Evidence that Defendant Cannon Personally Used Deadly or Dangerous**
3 **Weapons and Defendant Cannon Cannot Now Substitute His Judgment as to**
4 **the Weight of the Evidence or Credibility of Witnesses for That of the Grand**
5 **Jury**

6 The Grand Jurors were instructed on the law of Personal Use of a Deadly Weapon.
7 Specifically, the Grand Jurors were instructed that a deadly weapon other than a firearm can be
8 any object, instrument, or weapon that is inherently deadly or one that is used in such a way that
9 is capable of causing and likely to cause death or great bodily injury. (CALCRIM 3145.) They
10 were further instructed that an object is inherently deadly if it is deadly or dangerous in the
11 ordinary use for which it was designed, and in deciding whether an object is a deadly weapon, to
12 consider the surrounding circumstances. (CALCRIM 3145.)

13 Under the “deadly weapon” theory of aggravated assault pursuant to Penal Code
14 section 245, subdivision (a)(1), some objects, such as dirks and blackjacks, are inherently deadly
15 weapons as a matter of law. (*People v. Aledamat* (2019) 8 Cal.5th 1, 6; *In re D.T.* (2015) 237
16 Cal.App.4th 693, 698; *People v. Brown* (2012) 210 Cal.App.4th 1, 6.) Other objects which have
17 ordinary uses, such as box cutters and knives, are not classified as inherently deadly weapons as
18 a matter of law. (*People v. Aledamat, supra*, 8 Cal.5th at p. 6; *In re Raymundo M.* (2020) 52
19 Cal.App.5th 78, 86; *People v. Stutelberg* (2018) 29 Cal.App.5th 314, 317.) But any object can be
20 a deadly weapon when used in a manner capable of producing and likely to produce death or
21 great bodily injury. (*In re B.M.* (2018) 6 Cal.5th 528, 533; *People v. Aguilar* (1997) 16 Cal.4th
22 1023, 1028-1029.) “A mere possibility of serious injury is not enough.” (*In re B.M., supra*,
23 6 Cal.5th at p. 535.) In determining whether an object not inherently deadly becomes so, the trier
24 of fact may look at the nature of the weapon, the manner of its use, and all other factors that are
25 relevant to the issue. (*People v. Aledamat, supra*, 8 Cal.5th at p. 6; *People v. Aguilar, supra*, 16
26 Cal.4th at pp. 1028-1029.) The question is essentially one for the trier of fact. (See, e.g., *People*
27 *v. Koback* (2019) 36 Cal.App.5th 912, 918-926 [placing sharp key end between fingers and
28 attempting to stab someone sufficient evidence key fob used as deadly weapon]; *People v. Page*
 (2004) 123 Cal.App.4th 1466, 1473 [sharp pencil held up to neck]; *People v. Henderson* (1999)

1 76 Cal.App.4th 453, 467-470 [pit bull can be a deadly weapon under Pen. Code, § 417.8]; *People*
2 *v. Simons* (1996) 42 Cal.App.4th 1100, 1106-1108 [screwdriver can be a deadly weapon under
3 Pen. Code, § 417.8]; but see *In re B.M., supra*, 6 Cal.5th at pp. 536-539 [small serrated butter
4 knife not used in a manner likely to produce great bodily injury]; *In re Brandon T.* (2011) 191
5 Cal.App.4th 1491, 1496-1498 [small rounded butter knife not deadly weapon.] “Use” of a
6 deadly weapon can include cutting the brake lines on the victim’s car (*People v. Marsh* (2019)
7 37 Cal.App.5th 474, 487-488) or pushing the victim in front of a moving vehicle (*People v.*
8 *Russell* (2005) 129 Cal.App.4th 776, 778-785.)

9 Of particular interest to courts reviewing this issue is how the object was actually
10 **used** by the defendant in the course of their conduct. This was certainly one of the primary
11 factors considered by the *B.M.* court. They note that, “It is appropriate in the deadly weapon
12 inquiry to consider what harm could have resulted from the way the object was actually used.
13 Analysis of whether the defendant’s manner of using the object was likely to produce death or
14 great bodily injury necessarily calls for an assessment of potential harm in light of the evidence
15 . . . **the evidence may show that serious injury was likely, even if it did not come to pass.**” (*In re*
16 *B.M., supra*, p. 535.) (emphasis added.) *B.M.* concerned a defendant who used a butter knife to
17 slash against the victim’s legs, which were covered by a blanket; the court ruled that there was
18 no substantial evidence this attack was likely to cause great bodily injury. (*Id.* p. 531, 539.)

19 The ruling in *B.M.* is in direct contrast to Defendant Cannon’s argument
20 essentially asserting that because the victims were not injured seriously enough, the objects were
21 not deadly or dangerous weapons as used. This analysis is incorrect as a matter of law,
22 according to Defendant Cannon’s mainstay case. (Cannon Motion 6:22-26; 7:1-19.) The
23 eventual injury, **if any**, is not the sole factor with bearing on whether death or great bodily harm
24 was **likely**. (*Ibid*; see also *In re Brandon T.* (2011) 191 Cal.App.4th 1491, 1497 [“[A] conviction
25 for assault with a deadly weapon does not require proof of an injury or even physical contact”].)
26 Actual injury is relevant, but not necessary, to a court’s analysis. Certainly a court would not
27 reach this question if the object **did** cause death or serious bodily harm. This Court must,
28

1 therefore, consider the evidence presented, both in oral testimony and in the videos shown to the
2 Grand Jury, how the objects were used.

3 As outlined below, each object picked up and thrown by Defendant Cannon at the
4 victims in Incident 4 were dangerous and deadly weapons as used by Defendant Cannon. It
5 should be noted that the Cannon Motion argued, in error, that T.G. was the victim of Defendant
6 Cannon's personal use of the Twisted Tea can. This is incorrect and not reflected either in the
7 indictment or in the evidence. Defendant threw the Twisted Tea can at M.A.. T.G.'s testimony
8 on his injuries, already of diminished relevance under the law, is wholly inapplicable to this
9 allegation.

10 The Grand Jurors saw video of the conduct itself, where Defendant Cannon hurled
11 each of these three items at the victims as they ran away. The Grand Jurors also heard live
12 testimony regarding the three items Defendant Cannon used.

13 ***The Folding Chair***

14 Defendant Cannon picked up a wooden folding chair and hurled it at M.A.,
15 striking her with it and causing the chair to bounce several more feet. The Grand Jury received
16 *video* evidence of this. M.A. gave live testimony, and remembered being hit by something in
17 that moment. The Grand Jury found that the wooden folding chair was a dangerous or deadly
18 weapon.

19 ***The Twisted Tea Can***

20 Defendant Cannon picked up a full 24 ounce can of Twisted Tea and hurled it at
21 M.A., striking her with it. The Grand Jury received *video* evidence of this. M.A. gave live
22 testimony, and told the Grand Jurors about how the twisted Tea was thrown at her back.

23 Additionally, Detective Clark gave specific testimony to the Grand Jury regarding
24 cans of Twisted Tea. She testified that as a police officer, she has seen objects about the same
25 size and weight used to inflict injuries on victims, and that the Twisted Tea can could be used as
26 a deadly weapon because of its weight and because it was made of metal with a sharp edge.
27 Detective Clark additionally testified that depending on the way the can was used, if it was
28 thrown and if it hit the right part of the body ***could cause permanent brain damage or***

1 *potentially kill someone.* The 24 fluid ounce Twisted Tea can was even passed around to the
2 Grand Jurors so they could feel the weight themselves. The Grand Jury surely found that the full
3 Twisted Tea can was a dangerous or deadly weapon.

4 ***The Glass Bottle***

5 Defendant Cannon picked up a glass bottle and hurled it at unidentified victim 4,
6 this time missing and causing the bottle to bounce away and break. The Grand Jury received
7 *video* evidence of this and found that the glass beer bottle was a dangerous or deadly weapon.

8 These facts were received by the Grand Jury, instructed on, and ultimately
9 considered before probable cause was found as to the allegations against Defendant Cannon in
10 Counts 19 and 21. Certainly, Defendant Cannon's use of these three items against the victims in
11 the instant case was in a completely different league from using a butter knife to slash at
12 someone under a blanket, like in *B.M.* ***The reviewing court may not reweigh the evidence or***
13 ***substitute its judgment as to the weight of the evidence or credibility of witnesses for that of***
14 ***the grand jury. Nor does the reviewing court resolve factual contentions.*** (*People v. Pic 'l*
15 (1982) 31 Cal.3d 731, 737; *Jackson v. Superior Court* (1965) 62 Cal.2d 521, 530; *Lewis v.*
16 *Superior Court* (1990) 217 Cal.App.3d 379, 384.)

17 The Grand Jury's determination of the facts was sound, and this Court should not
18 disturb those findings.

19 **VII.**

20 **THE ENTIRE INDICTMENT WAS BASED ON COMPETENT EVIDENCE**

21 In a grand jury proceeding, the grand jury should not receive incompetent
22 evidence. (Pen.Code, § 939.6, subd. (b); *People v. Crosby* (1962) 58 Cal.2d 713, 725-726; *Mott*
23 *v. Superior Court* (1964) 226 Cal.App.2d 617, 618.) Competent evidence is evidence that, if
24 relevant, is otherwise admissible under the laws of evidence. (*Coburn v. State Personnel Bd.*
25 (1978) 83 Cal.App.3d 801, 809.) An indictment is not invalidated just because some
26 incompetent evidence is introduced before the grand jury (Pen.Code, § 939.6, subd. (b); *Crosby,*
27 *supra.*) If the competent evidence presented would lead a man of ordinary caution to
28

1 conscientiously entertain a strong and rational suspicion of guilt, the indictment will not be set
2 aside. (*Bompensiero v. Superior Court* (1955) 44 Cal.2d 178, 183.)

3 The People do not concede that any evidence presented was incompetent; as
4 outlined above, the entirety of the evidence the People presented to the Grand Jury was
5 competent. *Even if* this Court determines that incompetent evidence was presented, the sheer
6 weight of the remaining competent evidence presented to the Grand Jury would enable them to
7 entertain a strong and rational suspicion of guilt.

8 ***Background on Antifa: Beliefs, Tactics, and Targets***

9 Through the expert opinions of Doctor Dawn Perlmutter, the Grand Jury was
10 provided background into Antifa, their ideology and tactics. The Grand Jury learned both
11 general and specific aspects of Antifa’s beliefs, tactics, and targets. This evidence was simply a
12 framework for the Grand Jurors to assess whether Defendants formed implied agreements
13 through their shared Antifa-affiliation, and “conclude that members of the alleged conspiracy
14 acted with a common purpose to commit the crime.” (CALCRIM 415.)

15 ***Social Media: Defendants’ Own Statements or Adoptive Admissions***

16 The Grand Jury received a significant amount of inculpatory evidence for each
17 Defendant through their own social media account returns. These social media returns were all
18 presented with their accompanying certificates of authenticity, laying their foundation as
19 business records. The statements elicited from the social media accounts, including posts, likes,
20 shares, and direct messages, are statements or adoptive admissions of the Defendants who
21 operate the accounts. One account run by Defendant Cannon functioned effectively as an
22 invitation for others to join in a violent counter-demonstration. The postings and messages
23 referenced dressing in Black Bloc and arriving earlier than the planned pro-Trump Patriot
24 March. Phrases like “fuck the fash” can be seen on the posts.

25 As the People argued to the Grand Jury, these posts were, in essence invitations to
26 join the conspiracy to Riot in Pacific Beach. Defendants did not need to formally “R.S.V.P.”
27 (though some did) to join. They joined by showing up to the party, as it were, dressed in
28 appropriate attire, with the appropriate equipment, and most important of all (as discussed

1 further below), they proceed to work together in the unprovoked attacks on victims with their
2 fellow attendees.

3 Throughout the social media returns, the Grand Jurors saw multiple postings by
4 Defendants of the same invitation to “counter-protest” at a planned right-wing event in Pacific
5 Beach on January 9, 2021. (*see Exhibits 1 and 2.*) Grand Jurors saw how some Defendants,
6 including Defendant Lightfoot, formed *express agreements* to go to San Diego from Los
7 Angeles, with the specific purpose to commit acts of violence against persons they perceived as
8 opponents. No reasonable person could deny that based on these messages alone, there exists a
9 strong suspicion of guilt as to Count 1, as to these members of the conspiracy.

10 The other members of the conspiracy formed implied agreements, which
11 Defendants’ social media accounts were brimming with evidence of. At multiple points in
12 Defendant Lightfoot’s message chain, there were references to additional information about the
13 counter-protest being posted on Signal, even including a meeting location. Signal contacts from
14 Defendant Cannon’s phone included Defendants Lightfoot, White, Mora, Akridgejacobs,
15 Rivera, and Yach.

16 ***Arrival at Pacific Beach: On Time, Prepared, and Coordinated***

17 What the Grand Jury saw that further tied together Defendants’ common purpose
18 was how each Defendant was dressed when they arrived at Pacific Beach on January 9, 2021.
19 This evidence came from videos, photographs, and live witness testimony from victims of
20 Defendant’s conduct. Defendants did not only dress in Black Bloc, wearing almost all black,
21 with body armor, helmets, and face-concealing masks, they arrived at the exact same place, at
22 the same approximate time, from locations spanning Southern California. Each one prepared
23 what they wore, when to arrive, and how to arrive. Defendants also arrived at Pacific Beach
24 armed with various improvised weapons, like the Twisted Tea cans bearing specific significance
25 to Defendants’ Antifa-affiliated beliefs. Defendant Lightfoot and White had cans of bear spray
26 included in their tactical Black Bloc gear.

27

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1 Through this consistency, the Grand Jury saw that Defendants came to Pacific
2 Beach with a common purpose, even those who did not form express agreement like Defendant
3 Lightfoot and the members of his group thread. With these images and videos of Defendants
4 dressed the same, similarly armed, and acting with coordination, the Grand Jurors certainly
5 could entertain a strong and rational suspicion of guilt as to Count 1, on the basis of this
6 evidence.

7 ***Remaining Crimes: Caught on Video***

8 Each and every crime charged in Counts 2 through 29 was ***captured on video and***
9 ***in photographs***. Much of the video was introduced through persons who were personally
10 present during the events of January 9, 2021, including the victims themselves. Much of the
11 video was shared among Defendants, who bragged about what they did after the fact.
12 Defendants are easily identifiable in each video, and despite their Black Bloc tactic, they still
13 managed to look distinct, or even show their faces at times. The evidence of these remaining
14 crimes was certainly competent.

15 The video also served to show the Grand Jury the ***sustained*** coordination between
16 Defendants. As argued by the People to the Grand Jury, even if they were unsure of whether
17 Defendants formed an implied agreement prior to arriving at Pacific Beach, they certainly
18 formed one as they moved in coordination with one another and attacked victims in coordination
19 with one another. Defendants did this with attack, after attack, after attack, staying with the
20 group, and acting in coordination with one another.

21 ***Aftermath: Defendants Bragged About their Actions***

22 The competent evidence as to Count 1 contained in Defendants' social media was
23 not limited to statements made before January 9, 2021. Many made statements bragging about
24 what they did after the fact, shining a spotlight on their intent January 9, 2021. Defendant
25 Lightfoot's group thread bragged extensively about their conduct, going so far as to share photos
26 where they identified one another during Incident 11. Defendants reveled in the acts of violence
27 they perpetrated and were proud.

28

1 Defendant Lightfoot mused that bear spray should be intended for humans in
2 response to a video of people being bear maced by him. On January 9, 2021, Lightfoot
3 telegraphed: “**We fucked them up today.**”

4 Defendant Cannon expressed his satisfaction that the group he was a part of: “**we**
5 **fucked them nazis up.**”

6 On January 9, Defendant Mora sent Defendant Lightfoot the message: “**Fuck**
7 **them! Business was handled!**”

8 Defendant White made a proud Twitter post referencing himself during Incident 2,
9 when he used bear spray on a dog. In November 2021, Defendant White described his past
10 activity as follows: “**I kinda sorta dressed in a bulletproof antifa supersoldier outfit and**
11 **fought the cops and white supremacists during the lockdown.**”

12 Defendant Talab made clear after January 9, 2021 to this group: “**we squadded up**
13 **and went to San Diego,**” “**We were very deep in numbers.**”

14 *Summary*

15 In short, the competent evidence presented to the Grand Jury in this case was
16 multifaceted, overwhelming, and reasonably tied to numerous distinct theories under which the
17 Grand Jury could indict on Count 1, Conspiracy. The remaining counts were proven through
18 video evidence and live witness testimony. The indictment must stand.

19 VIII.

20 DEFENDANTS FAIL TO SHOW DISCRIMINATORY PROSECUTION

21 A. Defendants Have Not Established Discriminatory Prosecution

22 A motion to dismiss based on the defense of discriminatory prosecution has can
23 only succeed if a number of facts are proved. (*Murgia v. Municipal Court* (1975) 15 Cal.3d 286,
24 298 (*Murgia*); see also *People v. Milano* (1979) 89 Cal.App.3d 153, 165; *People v. Garner*
25 (1977) 72 Cal.App.3d 214, 216-217.) Specifically, the defendant must prove by a preponderance
26 of evidence all of the following points:

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28